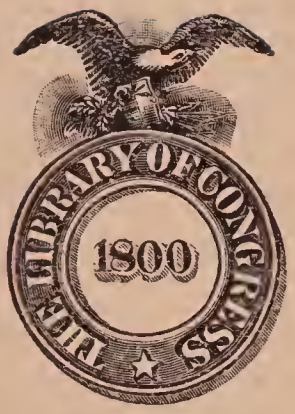
THE MARCH OF DEMOCRACY

MILLER

INDIANA EDITION



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THE MARCH OF DEMOCRACY

BY

CHESTER F. MILLER

SUPERINTENDENT OF SCHOOLS

GALESBURG, ILLINOIS

INDIANA EDITION

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EFFECTIVE METHODS OF STUDY

THE FIRST STEP IN CITIZENSHIP

This book has been written to interest you in better citizenship. It is a well known fact that better citizenship is an outgrowth of a clear understanding of present day problems based on a knowledge of the origin of these problems. You will find many opportunities to conserve, to improve, and to pass judgment on the valuable material and the remarkable inheritance which has come down to you from the past. Throughout the *March of Democracy* are many questions, topics, individual problems, suggestions, and group projects planned to develop a feeling of responsibility when studying the struggle for liberty. You will find helpful the inspiring examples of men and women who gave much that you might enjoy the privileges of today.

A study of the fundamental principles of your country should train you to use books effectively, to carry on investigations, to compare conflicting statements, to have respect for the opinion of others, and to have a thorough understanding of the value of coöperative effort.

Rights and privileges of citizenship in a democracy carry with them real duties and responsibilities.

At the very beginning of this study is the most opportune time to begin to accept such duties and responsibilities. Citizenship is a question of forming proper habits. Correct habits of study are essential to success in school, which is an obligation you accept when you receive your education at the expense of the government. Every effort you make to become more efficient in your studies offers experiences that constitute valuable lessons in citizenship.

There is nothing more essential to the best citizen than ability to investigate intelligently and reach an independent conclusion on public questions. Just as the good citizen goes about his duties in an orderly and efficient way, so the one who knows goes about the preparation of his lessons with decided advantage over one who begins his studying in a random and haphazard way. How to use your hands efficiently is very important but how to use your mind effectively is more important. Preliminary to the study of the growth of government suggestions are offered here to assist you in forming habits of study, that if followed will make you a better student and indirectly a better citizen.

1. In planning your daily study periods have a regular time and place for this subject.

2. Before you begin to study remove all disturbing influences that may interfere with your work; then begin with a strong determination to succeed.

3. Just as athletes find it necessary to "warm up" before a game so the best mental workers find it necessary to go through a "warming up" process

to get into the swing of study. The length of this process depends upon the energetic start. The more time you take for the "warming up" process the longer it will take to master a lesson.

4. Begin studying with a rush. Get a flying start. At the next athletic contest watch the players to see if there is anything done there that can be applied to preparing lessons.

5. Know exactly what is to be studied. Be sure you understand the assignment of the lesson and study as soon after it is made as possible. Know the information you are to find and what use you are to make of it.

6. Think over the main points of the previous lesson, then keeping in mind the general idea, ask yourself what you expect to get from this lesson.

7. Read headings and heavy black type to see if they forecast the content of the lesson. Watch for other indications of main ideas often called "sign posts."

8. Read over the entire assignment rapidly in order to get a general idea of the lesson. This gives you a preliminary bird's-eye view and an opportunity to select the high spots in thought before a deliberate second reading.

9. Read the lesson again, this time deliberately and thoughtfully in order to get the details that support the big ideas secured from the first reading. Do not pass up any unfamiliar words or references. Make a list of the things you do not understand and look them up.

10. Organized work is always the most effective. Outline and underline the parts that are important and carry out the assignment. Such work is economical because it assists in the learning process.

11. Test yourself by trying to recite the contents of each paragraph without looking on the book. In other words, tell the story of the lesson to yourself. If you fail, study the lesson until you succeed.

12. Run over the whole lesson immediately after study because the laws of learning teach us that recall immediately after study is economical.

13. Spend as much time in thinking about your lesson as in reading about it.

14. Always keep in the foreground the fact that every sentence in this book contains information related in some way to your citizenship. Add some thinking to all that is developed. It is always wise to use the ideas developed in some problem of your own.

15. Ask yourself questions and try to determine the questions which the author tried to answer.

16. Study the same lesson at different times.

17. Before you go to class think over the lesson again.

18. A review of the right kind should give you a "new view." The laws of learning teach that frequent and systematic reviews make learning permanent.

Remember—you are not studying just because a lesson is assigned. Make the best of your opportunities.

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INDEPENDENCE HALL, PHILADELPHIA, PA.

THE MARCH OF DEMOCRACY

CHAPTER ONE

RESPONSIBILITIES OF CITIZENSHIP

Our Obligation to Society.

Good citizenship is something more than loving one's country and being proud of it. It is something more than observing our patriotic holidays and merely cheering the flag when it passes on parade. Good citizenship is not what we say about our country but what we do for our country. The more we study our history and realize the sacrifices which made the nation what it is to-day, the more we should feel obligated to strive in every way to fit ourselves to make return for the privileges we enjoy.

The Constitution grants certain rights which give each citizen a heritage unequaled by that of any other nation. "Every right and benefit we receive from the community or nation must be offset by a corresponding duty and paid for by the performance of that duty." Government does not begin at Washington or with the politician or the governor or the mayor, but it begins at home with you and me.

CAPITOL OF THE UNITED STATES, WASHINGTON, D.C.

The story has often been told of the man who visited Washington, D.C., on a summer evening and saw the reflection of the setting sun on the towering marble of our country's Capitol. He thought of the tremendous significance of the armies and the treasury, and the judges and the President, and the Congress and the courts and all that was gathered there. Moved by the sight of the home of our Republic, he said, "Here is my Government in all its majesty." Then in a vision he beheld a vista of open country, fields of ripening grain, forests, mountains, homes, villages, and cities. It was evening in all of these places; the people were returning to their homes after the day's work. The great dome of the Capitol stood out above all in magnificent splendor. But this time the sunbeams were golden threads leading from the dome of the Capitol to each man, woman, and child in each home. His vision was a full realization of citizenship in a democracy, and he said: "Surely here in the homes of the people lodge at last the strength, and the responsibility of this government, the hope and the promise of the Republic. Here is its majesty and strength. Here is the beginning of its power and the end of its responsibility."

If in adult life our golden thread is broken by abuse of privilege, by inactivity, by scheming politicians, by lack of law enforcement, we alone are to blame for not exercising or striving to reclaim our rights of citizenship. Such rights and duties begin in childhood and reach their full realization

in worthy citizenship as we grow in knowledge and responsibility.

We live in a nation that grants equal rights and offers equal opportunities to its citizens. The obligation of insuring progress and prosperity, the perpetuation of the principles set forth in our constitution, the substitution of the gospel of right for that of indifference and cowardice requires the serious attention of every American citizen.

The safety of our country is not merely in laws or legislation, but in the men and women who are willing to put service before self-interest.

"Sad will be the day," wrote Phillips Brooks, "for any youth when he becomes absolutely contented with the life he is living; with the thoughts he is thinking, and the deeds he is doing; when there is not forever beating at the door of his soul some great desire to do something larger which he knows he was meant and made to do."

Conservation of Health.

On our health depends our usefulness and our ability to count for something to the nation. As we are preparing our minds for the test of citizenship we should also be building up a physical reserve to stand the test of strenuous competition. Disregard for the laws of health leads to disappointment and the blasting of high hopes for public usefulness. Our good health means saving trouble to our family, our friends, and our employer. If we are careless in this respect they are cheated, and in cheating them we cheat the nation.

Health is real wealth; consequently a nation endeavors to conserve the health of its citizens as the most vital of its resources. The greatest asset of a nation is its strong men and women—those effective during a long working life. It is estimated that preventable illness in a single year costs the nation $1,800,000,000, and that 42 per cent of the deaths could be reasonably postponed. The World War brought to our attention the alarming fact that we are deficient in education and common health, not only in the big cities but also to a greater degree in the country districts.

Citizenship requires more than merely keeping well; it requires a type of physical efficiency that enables one to be calm, poised, direct, and accurate. In aristocracies of the past a few have said, "We are best; therefore we shall rule." The best usually meant those superior in physical strength, because the ruling class depended largely on physical force to maintain itself. Democracies arose and selected their leaders on the basis of mental and physical efficiency to carry out the will of the people.

In a democracy a premium is likely to be placed on the mental development of all of its people, while the physical development, being regarded as secondary, may be neglected and consequently decline. To-day many young men and women must face the problem that superior educational development without the physical reserve to sustain it is an economic loss to the nation.

Worthy Home Membership.

Good citizenship begins at home. A home is a coöperative institution. The assigning of tasks and their successful completion is the beginning of the formation of habits that are reflected in larger citizenship. The American family group gathered after the evening meal, each engaged in his task for improvement or for pleasure, at times discussing their common problems, is the most fundamental of democratic institutions. In the ancient days part of the education for citizenship that corresponds to our high school training consisted in listening to and participating in the discussions of the elders.

Young people sometimes think their parents taskmasters because they require strict obedience in the correction of personal habits. Obedience underlies all other lessons and is the principal duty of the young. The adult is required to obey more strictly than his children, for there are duties, obligations, and responsibilities in living which cannot be disobeyed without loss of position, property, and even life. The young person who is a law-abiding citizen in the home can be expected to become a law-abiding citizen of the country.

Worthy home membership requires respect for the rights of others. This is a fundamental principle of our very existence as a nation. Laws and requirements of society are made to protect those who are most respectful of the rights of others and are usually regarded as most unjust by those who are inclined to disobey them. The neglect of home duties may seem trivial, but in neglecting

such duties we form habits which may later tend toward an unworthy citizenship.

As worthy home membership requires coöperation, self-sacrifice, and the occasional giving up of some individual rights, so a successful democracy expects of its citizens the sacrifice of some individual rights for the good of the nation.

Vocational Outlook.

An American citizen should be eager to do something worth while in a nation offering a thrill of amazing growth, teeming with possibilities and rich in resources. Such a heritage should create a desire in the heart of every youth to catch the spirit of this inspiration and participate in the nation's greatness. We see around us wonderful opportunities wherein men of superior natural ability have achieved success. We are not hampered by class distinctions or prejudices. We are free to accept the challenge to compete for the most responsible positions in America. If we search the biographies of our great men, we will usually find two things in common. First, they came from good homes but homes of moderate circumstances; second, they were uncertain regarding their future vocations. Positions, ownership, and even control await the young men and women who are fit and willing to make the fight for success.

Selecting a vocation is a very serious and vital matter. It takes continuous thought, study, and contact with successful men and women in selected lines of work. It requires a thorough analysis of

our special fitness and a search of the requirements of the vocations.

Too often people find themselves unfitted and fail in their life's work after years of preparation because a selection was made without thorough investigation. Macaulay has said, "The world generally gives its admiration not to the man who does what nobody else ever attempted to do but to the man who does best what the multitudes do well." Many of our most prominent men and women have attained success by methods so simple that we often wonder why they were not apparent to others long ago. We are surrounded by opportunities for success. Russell H. Conwell, in his "Acres of Diamonds," tells the story of Ali Hafed, a wealthy Persian farmer, "contented because he was wealthy and wealthy because he was contented." One day he was visited by an ancient Buddhist priest who first told him of diamonds and what they would buy. Ali Hafed, although having lost none of his property, "went to bed that night a 'poor man' because he was discontented and discontented because he feared he was poor." His growing discontentment caused him to sell his farm and wander throughout Asia and Europe in search of diamonds. Finally penniless, afflicted, suffering, and dying, he could not resist the temptation to throw himself into the Bay of Barcelona in Spain. The man who had bought Ali Hafed's farm was one day watering his camel in the garden and discovered a magnificent stone which he placed on the

mantel in the drawing room. There the stone was seen by the same priest who had caused Ali Hafed's discontentment. Hurrying to the stream they discovered more diamonds in the sand. Eventually the garden developed into "the most magnificent diamond mine in the history of mankind." Since that time every acre of that farm has yielded diamonds. This story teaches us that many times we fail to recognize a big opportunity in the commonplace things of our own immediate surroundings. It is not necessary to go into a far country or to seek a large city in which to succeed. Many successful men have made a city out of a village.

"Youth is the workshop where the men and women of the next generation are built." People who accomplish the most are those who work with definite purpose. Youth, then, is the time to select an aim in life and leave no stone unturned in the pathway that leads to success.

Time wasted during the years of preparation does not enable us to realize the extent of our possibilities. The highest position in America is open to the person who has the vision to achieve it. This is an inspiration to the noblest ambition and should be the goal of every American.

Respect for Our Laws.

Laws are the results of the experience of the generations which have gone before. Ours is a "Government of Laws and not of Men." The Bible tells us that, when "every man did that which was right in his own eyes," there was anarchy in the land. This fact handed down from generation to

generation warns us that the very existence of our nation depends on our attitude toward, and respect for, law and order.

Our nation is founded on the principle that its citizens submerge their personal desires to those of the majority when it is for the welfare of all. It is not for us to judge and criticize our government thoughtlessly. Good citizenship springs from an understanding of the necessity for laws planned and imposed by representatives of the majority.

The public will is expressed in law. The duty of a citizen to obey the law involves the duty of placing the good of the whole above that of the individual. We must realize that the individual is a member of the whole group and that his welfare is better protected when considered in reference to the welfare of the whole. Because some one else violates a law and is not caught or is shrewd enough to violate the spirit of the law and still avoid the penalty, that is no excuse for us to ease our conscience when contemplating an act unworthy of a citizen.

The machinery of government and its departments of law enforcement remove from the individual much of the responsibility for protecting himself. They also give him freedom to live his own life, as long as he does not interfere with the rights of others. In return for these privileges the good citizen willingly accepts his responsibilities. When citizens fail in their duties to their country the nation fails.

Coöperation in Law Enforcement.

There are insidious forces continually opposing authority and threatening our rights, privileges, and liberty by establishing precedents not in conformity with the spirit of our Constitution. This challenge to authority must be met with fearlessness by men and women who as boys and girls respected the authority of the home, the school, and the church. An increased number of laws do not necessarily develop a law-abiding spirit. In fact, fewer laws rigidly enforced are productive of better results. The spirit of escaping punishment through the services of skillful lawyers, leniency of judges, or political influence is not the spirit of the true American citizen, but it is the spirit that will surely break down constitutional government.

A great obligation rests on us because the success or failure of representative government, regarded as the hope of other nations of the world, depends largely upon the manner in which we preserve our Constitution.

A few statistics should incite every young man and woman to do his or her part as a citizen to curb the breakdown in respect for the laws that insure protection of life, liberty, and property. In 1912 our Federal Court with its limited jurisdiction considered 9503 criminal indictments; last year this number increased to over 80,000.

Casualty companies report that losses paid for burglary alone had grown from $886,000 to over $10,000,000 in the last six years.

In one large city alone five thousand automobiles

were stolen in a single year. Burglaries have increased 1200 per cent in number in the last decade. Why? Because the serious obstacle in law enforcement arises from the attitude of law-abiding citizens. When called to aid in the enforcement of the law many citizens are not conscientious regarding the means they use to escape their duty.

Sympathy for the accused, newspaper publicity, and disregard for the rights of citizens who are law-abiding engender further lawlessness. The Constitution provides, "In all criminal prosecutions the accused shall enjoy the right of speedy trial." Few criminals to-day "enjoy" this privilege as the makers of the Constitution intended. Yet it is a well-known fact that delay is not for public benefit and is an additional expense to law-abiding citizens.

We spend approximately six times as much for crime as we do on the education of all the children in all of the public schools in the United States. Rigidly enforcing the law and reversing the ratio of expenditure so that six times as much is spent for constructive citizenship as is spent for crime should undoubtedly contribute to the general welfare. Not a single clause of the Constitution directly defines the duties of citizens. The document is a summary of the rights of citizenship. For our own welfare we have learned that the rights of one's property impose the duty of protecting the property of others; that the right to pursue happiness deserves the duty of insuring the happiness of others; that the right of freedom enjoins us to pre-

serve that freedom and the freedom of others by using our influence to punish those who are not law-abiding. "Remove not the ancient landmark which thy fathers have set" is a challenge to the next generation not only to oppose revolts against authority and carelessness in law making but also to use every influence to coöperate in rigid enforcement of the laws which protect us.

Political Consciousness.

In some of his letters Theodore Roosevelt tells of his first experiences in ward politics. "None but the roughs and professional politicians go there; our people do not mix in these affairs," said his friends when he announced that he was going to a political meeting. "Then," said Roosevelt, "you do not belong to the governing class in this country. So far as I am concerned I intend to belong to the governing class." The life story of this remarkable American is a challenge to every American citizen who is determined to exercise the privileges of his birthright. This spirit of "letting the politicians do it" surely is a dangerous one, because it is a step toward a dictatorship either of an aristocracy or of the proletariat.

Almost half of our citizens eligible to vote fail to go to the polls on election day. About 50 per cent of the electorate voted before women were enfranchised and about 50 per cent of the electorate has voted since women were given the privilege. In 1896, 80 per cent of the qualified citizens voted in the presidential election; in 1900, 73 per cent; in 1912, 62 per cent; in 1920, 49 per cent; in 1924,

THEODORE ROOSEVELT

52.8 per cent. The potential voting strength of the United States is now about fifty-seven millions, and the vote of approximately thirty millions cast in 1924 allows a bare majority to rule. In one state only eight per cent of the voters went to the polls in the presidential election of 1924.

When voters say, "My one vote will not affect the result," tell them that twelve times out of thirty-four a president has been elected by a minority of the popular vote. Tell them that every time a qualified citizen refuses to vote, he loses his identity as an American citizen, and his vote may be one of the few to decide between a desirable and an undesirable administration.

There is not enough money in existence to buy the vote of a true American citizen. The privilege of the ballot is a priceless heritage not to be bartered away for favor, for friendship, or for gain. The intelligent ballot of the intelligent, patriotic voter is the very life blood of a nation such as ours. It is our duty to engage in this "game" of politics and see that no one wins by default.

Habit of Public Service.

The real patriot, the responsible citizen, must be willing to dedicate a part of his time to the welfare of the nation which makes his success possible. In one of our large cities 380 business men were called for jury service and 379 perjured themselves out of the jury box. If justice is to come through the courts, our best citizens must obey the call to service.

A good citizen's obligation does not stop with

simply obeying the laws and paying his just taxes. There is a call for community service, coöperation in Boy Scout work, Red Cross, Civic Clubs, Associations of Commerce, Civic Welfare associations, the city beautiful movements, and in fact all enterprises that make our city a better place in which to live.

When a worthy cause is promoted money is the easiest thing to give, but the best citizen gives also of his time and thought. Every exceptional city, every big institution, college, library, or church has as a part of its history the story of a man or woman or of a group that had a vision of greater service to their fellow man. Perhaps at one time the realization of this vision seemed impossible, but the same determination that produced the Constitution and the fundamental institutions of America dominated the effort to realize it. To-day we can rarely visit an American city, however small, without seeing evidences of such leadership.

This, then, is the spirit that we have inherited and it remains to be seen how well we accept the challenge. There would be little occasion to be concerned about the future of our nation if every boy and girl in America to-day were a living example of these words of Daniel Webster:

> "I shall know but one country! The ends I aim at shall be my country's, my God's, and truth's."
>
> "I was born an American; I lived an American; I shall die an American, and I intend to

perform the duties incumbent upon me in that character to the end of my career."

To-day, more than at any other time in our history, we need a nation of such Daniel Websters who will perform the duties of American citizenship with determination and without prejudice.

American Ideals and Respect for the Flag.

Justice and idealism have always followed the American flag as an inspiration to the patriot and as an emblem of hope to the oppressed.

The story of our flag is a story of the nation itself, its noble aspirations, and the achievements of its people.

Henry Ward Beecher said, "A thoughtful mind when it sees the flag sees not the flag but the nation itself."

Around the flag cluster thoughts of loyalty and of personal sacrifice which have enabled us to move forward from the day when each struggled for himself alone.

The flag is fundamental, yet it represents an expanding, growing nation. Its stripes represent the thirteen original states. Its stars indicate the existing states and point toward the future.

The flag represents varied ideals in the hearts and minds of its citizens in accordance with their experiences and deepest emotions.

To the foreigner who comes to our shores it means hospitality, freedom, equal opportunity to compete with his fellow man, free education for his children, the right to own property and improve his station in life.

BETSY ROSS MAKING THE FIRST FLAG

To the vast majority it means that "our government shall stand between labor and capital, between the weak and the strong, between the individual and the corporation, between want and wealth, and give and guarantee simple justice to each and all."

To the ex-service man it has a strange and precious meaning of supreme sacrifice, of battles he hopes to forget, of deeds of heroism to save a nation or to establish further ideals.

To foreign countries and down-trodden people it has brought our spirit of democracy, our principles of personal freedom, and relief to the oppressed.

To the citizen traveling or residing in foreign lands it means that the far-seeing eye of the government back of our flag will look into the remotest parts of the world and demand his safety. He knows that if necessary our flag will come, backed by the resources at its command, to show to all mankind that disrespect to a citizen is disrespect to his flag and to the nation for which it stands.

To-day it goes on a world mission creating good will; to-morrow it may go on a stern mission demanding justice.

Yesterday a President recognized the value of the Boy Scout movement and gave it national sanction; to-day Congress recognized equal rights for women and settled for all time the question of woman's equality in government.

It is a wonderful flag that does glorious things for the benefit of humanity.

The government represented by our flag is ever

on the alert to guard the rights of its citizens native and naturalized, offering increased opportunities to every one regardless of birth, race, or social conditions.

Questions

To the Pupil:

1. Define good citizenship.
2. Discuss the responsibilities of citizens in a democracy.
3. Show how keeping physically fit is largely a matter of habit.
4. Why should a government be concerned with the health and education of its citizens?
5. Discuss the home as a maker of good citizens.
6. Why is it becoming increasingly more important for a young person to make a study of the vocations before making a decision? Why should the government be interested?
7. Show how new laws are made and indicate the part the good citizen has in their making.
8. When laws are made, what are the obligations of the citizens?
9. Show how the person who thinks of himself and his own interests first is not a good citizen.
10. Memorize the words of Daniel Webster quoted in this chapter.
11. Discuss each of the following topics and show how each contributes its part in forming the habits necessary to a good citizen: (*a*) Saluting the flag; (*b*) Rising when the National Anthem is played or sung; (*c*) Ability to intelligently discuss current events; (*d*) Obeying the rules and regulations of the school; (*e*) Coöperating in carrying out and supporting the wishes of the majority in your own club; (*f*) Evaluating newspaper material and reading editorials; (*g*) Accepting the decision of a referee courteously; (*h*) Discouraging acts of organized re-

bellion against authority; (*i*) Knowing the rules of a game and playing it so that disputes are avoided; (*j*) Reporting serious offenses to proper authorities.

Things to Do:

1. Collect and bring to class for discussion editorials, news items, special articles, posters, and cartoons which embody appeals to seriously consider the responsibilities of citizenship.
2. Make a list of the various agencies engaged in the social work carried on in your community. Interview the person in charge of such an organization and report to the class.
3. Choose a vocation and show the training required, the possibilities for success, in fact all the steps necessary to reach the position of highest responsibility in it.
4. Make a list of the things your city, state, and federal governments are doing for you.
5. Using newspapers in class, discuss the relative merits of the contents with reference to the essentials of good citizenship set forth in the chapter.
6. Further exercises in citizenship for stimulating class discussion and training in making decisions vital in the life of every citizen can be had by using "Tests in Citizenship" by Chassell and Chassell (Bureau of Publications, Columbia University). The problems are presented in story form with judgment questions aiming at the thoughtful consideration of the problems of Honesty, Thrift, Self-control, Civic Responsibility, Fair play, Perseverance, and Trustworthiness.

Helpful and Inspirational Books:

Dunn—"Community Civics for City Schools"
Dunn—"Community Civics and Rural Life"
Bok—"Americanization of Edward Bok"
Hale—"Man Without a Country"
Riis—"The Making of an American"
Hagedorn—"You are the Hope of the World"

CHAPTER TWO

GOOD CITIZENSHIP REQUIRES A STUDY OF THE DEVELOPMENT OF OUR CONSTITUTION

Place of education in government.

The greater portion of the people of the world have no choice in selecting their governors. In such countries there are two school systems. One educates those who are to rule and the other those who are ruled. The educational opportunity which a child receives is determined by birth and social position. The "high born" are given a complete education in one school system. The "low born" attend a different system and receive but a meager elementary training completed at an early age.

The "low born," or the people destined to be followers, do not study the fundamental principles of government. They are deliberately trained to be good, hard-working, industriously efficient, law-abiding subjects, content to plod along in an unchanging groove without having their curiosity aroused about the origin and the operation of their government.

In America we are really the governors ourselves and we must be trained to know the meaning of true liberty, to exercise the rights of a ruling citizenship, and to know the value of industry, of courage, and of character.

The background of citizenship.

In early childhood we have only a personal interest and cannot forget our own selfish desires however much they interfere with the rights of others. As we grow older we know well that it is the contacts we make with our parents, our neighbors, our friends, our schoolmates, our civic institutions, and our surroundings which make us what we are. Every association should have a tendency to mold us into better citizens. If we think back over our lives, we realize that we have passed through an evolution in the formation of habits to reach our present state of citizenship. In a similar way our nation has grown because our nation is composed of individuals such as ourselves. Our nation is a product of the Anglo-Saxon race. This race has the distinction of developing a capacity for self-government and for creating the free institutions which we have inherited.

Our religion is presented to us in historical form, and we enjoy studying the story of its fundamental principles and the sacrifices that made it an established religion.

Similarly we must study the story of the development of our Constitution, creating a background before we study this great document itself. "Precedents like cobblestones pave the pathway to the Constitution," and that pathway reaches far back to the beginning of the struggle for personal liberty.

It will be a matter of the highest interest to know how our government was created, how it operates,

and how it may be made the means of further progress in promoting the general welfare.

A great journalist writing on the Constitution said, "Almost every provision in that instrument has a history that must be understood before the brief and sententious language employed can be comprehended in the relations its authors intended."

It is with these principles in mind that we concern ourselves with the historical background and trace the development of the Constitution through its various stages until we study in their original form this and other great documents of liberty.

THE GROWTH OF THE CONSTITUTION

Periods of Development.

The form of government under which we live is not the work of a day, nor is it the work of any one man or any one body of men. It is the outgrowth of long experience. It is the product of a gradual evolution through a period dating far back in history. As we follow the growth of the Constitution, through the successive steps by which it was formed, we shall try to emphasize the underlying principles which, slowly but steadily, led the colonies to form a firm and lasting union and which have made the America of to-day one of the greatest governments of all time.

Broadly speaking, the story of the growth of the Constitution may be divided into three periods, although each period is related to the one following so that no definite line of demarcation can be drawn between the different periods.

Questions

To the Pupil:

1. Why is ignorance of the Constitution a real danger to us?
2. If our fellow citizens are in ignorance of the enforcement and the violation of the Constitution, can it affect our liberty? Why?
3. Why concern ourselves about understanding the Constitution when others in authority will do that for us?
4. Imagine that all the copies of the Constitution in existence were destroyed. On what basis would we continue our government? Why?
5. A good business man will not become a party to a contract without a thorough investigation, and in the case of real estate traces the history of the transaction back to government ownership. (*a*) Show how the government as a party of the first part and you as a party of the second part form a Personal Liberty-Insurance Contract. (*b*) Why is it good business policy, regardless of your duty as a citizen, to investigate what the government expects of you? (*c*) Show why the government is justified in expecting returns to the best of your natural ability.
6. Show how each generation can furnish the material which enables the one following to make more progress.
7. What object do business houses, life insurance companies, and banks have in using with their advertising material reproductions of famous documents and pictures of meetings and of men preparing such documents?

Things to Do:

1. Find the history of some local custom or institution and show how this knowledge gives you more interest in it.
2. From your grandparents get a description of the schools they attended and the subjects taught. Using this information in comparison with your school, show how their experiences were of service in giving you superior advantages.
3. Debate—Knowledge of the Constitution and its development is quite as essential to good citizenship as knowledge of the rules of a game before playing it.

CHAPTER III

THE GROWTH OF GOVERNMENT IN INDIANA

Indiana To-day and Yesterday.

As we journey through the state of Indiana to-day over its nine thousand miles of railroad, its two thousand miles of interurban electric lines, or in an automobile over its forty thousand miles of improved roads we can scarcely realize that here less than two hundred years ago was a land untouched by civilization.

Wild animals, wild flowers, and wild birds were everywhere. Fish of many kinds swam its streams. Nature favored the wild life of that day much as she has made prosperous the civilized life of to-day. Seasons came and went, but no one was here to plant or to harvest. The hand of man had not transformed this country of marvelous natural beauty.

The roads on which we travel were blind trails made by the wild life and the buffalo. Later the warrior followed the same paths which long since were not sufficient to answer the needs of civilized man. Within a comparatively few years, ninety-four per cent of this territory known only to the Indians, a total of more than twenty-three millions of acres, has been transformed into farm lands. Log cabins have become modern residences. Railways, automobiles, and electric cars have driven first the

oxen and then the horse from its highways. The deer, the elk, the buffalo have long since disappeared and in their stead we see fine herds of cattle, flocks of sheep, and droves of hogs in the fields. Instead of prairie grass we see miles and miles of wheat and oats and corn.

The hand of civilized man has surely transformed this land. The age of the machine has brought wonderful changes on the farms, in the cities, and on the streams. Occasionally we come to a city with its skyscrapers, its theaters accommodating thousands, its electric lights, its water system, its garages, its great factories, its warehouses, and its stores. Indeed, here is a prosperous state where live over three millions of people with a wealth of nine billions of dollars. Here are schools and colleges to train the youth for more efficient and useful citizenship.

But even more marvelous than these changes on the farms, and in the cities, is the way in which people during a period of such growth and amidst such prosperity have governed themselves in harmony. Business has been revolutionized at times to the point where disaster seemed certain. Great enterprises have come into existence, served their purpose for a period, and disappeared. But our form of government has weathered all such difficulties. It is indeed interesting to study the development of territorial and state government. Sometimes we feel that, no doubt, some of our forefathers dreamed of a state such as Indiana, and this

vision guided their plans. In other ways, too, Indiana was fortunate because she was one of the states used as a model for our system of state government growing from territorial government. Her history, then, becomes in general the history of every western state government.

An Unknown Territory.

When the mainland of America was discovered and a charter was granted to the Virginia Company the people in England little realized the extent of the territory in America. In this grant much of the present territory composing Indiana was claimed by Virginia. The French, headed by La Salle, explored this territory, claimed it for France, and established several trading posts.

George Rogers Clark.

During the Revolutionary War Kentucky was the extreme western frontier. As troubles developed it was thought by many that it would be unnecessary to attempt to hold and develop territory farther west. But a leader solved this problem for them. One George Rogers Clark, a Virginian by birth, a Kentuckian by adoption, a fearless man of character and power, acquainted with settlers and Indians alike, came to the rescue. He long since had realized the value of this wonderful country to the nation. A difficult trip was made back to Virginia to lay his scheme before Patrick Henry, its governor, Thomas Jefferson, and others.

The governor authorized a secret expedition against Kaskaskia and gave Clark authority to raise seven companies of fifty men each. He encountered many difficulties but finally succeeded in securing

a force of one hundred seventy-five men. With judicious leadership Clark moved his men over the streams and by forced marches through the wilderness. He captured Kaskaskia from the French and mastered the Indians. Later he captured Vincennes, expelling the British from the territory, and finally brought control to the hands of the Americans. We owe a great debt of gratitude to George Rogers Clark for thus clearing the way for settlers.

First Government Established.

With the settlers came government. At Kaskaskia in 1779 the first American government was established north of the Ohio River and the first election of officers held. This form of government, however, was temporary. The Virginia delegates in 1784 ceded her claims in the territory north of the Ohio River to the United States. These claims were based on the "sea to sea" clause in the Charter of 1609 and to captures from the British acknowledged in the treaty at the close of the Revolutionary War.

Virginia's Cession.

Besides Virginia, Massachusetts, Connecticut, New York, the two Carolinas and Georgia all had claims to western lands. In 1781 all states had ratified the Articles of Confederation except Maryland who declined to sign, thus forcing the agreement whereby states claiming western lands finally agreed to cede them to the United States.

This presented a new problem. The Constitution of the United States could govern states; but what could it do with territories belonging to no state?

While this problem was being considered Congress

passed the Ordinance of 1784 to serve as a basis for territorial government until such time as the population would justify the admission of states from this territory.

Public Land Surveys.

Opening up the territory to settlers compelled a scheme to transfer and describe the land. Experience had shown the old colonial system of surveying land inadequate. Confusion of ownership resulted, and lawsuits over land titles were too common. Thomas Hutchins, the first surveyor general of the United States, originated the rectangular system of surveys, and Thomas Jefferson, chairman of the committee, succeeded with its adoption by Congress in 1785. This system of dividing the territory into congressional townships six miles square later became the model for dividing all western lands. First a base line was run east and west crossing the southern counties of Indiana about the latitude of Vincennes. Then a meridian line was run at right angles to this line due north and south just west of the center of the state extending from the Ohio River to the Michigan line.

Starting at the intersection of the base and meridian lines the surveyors measured off six miles to the north and six miles to the east on each line. Through these points were run intersecting lines forming a square six miles on each side. This was called a township and contained thirty-six square miles, each square mile being designated a section, or 640 acres. Each section was then given a number. The northeast section was always number 1, and the

southeast section was always number 36. Sections were then divided into quarter sections (160 acres), and these tracts are often subdivided and described as we find them in deeds to-day.

The first surveys were made in the vicinity of Vincennes before the plan was complete, which accounts for some irregularity in the lines of that section. No doubt this preliminary work was the reason for starting the general survey in this section.

In the land office at the statehouse in Indianapolis may still be seen the drawings and "field notes" made by the surveyors.

Ordinance of 1787.

In spite of the Ordinance of 1784 making a provision for a temporary government and the land surveys, settlers did not come to this new territory. It remained for a group of citizens in Massachusetts interested in converting certificates of indebtedness into future homes to start the movement. Revolutionary officers held certificates for western lands, and soldiers and others left with little after the war desired lands in the new territory. A land company, called the "Ohio Company of Associates," was formed to carry out this plan. Representatives were sent to Congress to further their plans. Soon the Ordinance of 1787 was passed. Although Congress had no authority to take such action, this document has since been a model for the government of our territories. The Ordinance organized a government for the territory bounded by the Ohio River, the Mississippi River, and the

INDIANA TERRITORY IN 1800

Great Lakes. It provided that whenever a section contained sixty thousand people it might be organized in a state, and that no less than three or more than five states should be formed from the tract.

Provision was made for civil liberty and free schools, and absolute freedom of faith and worship was guaranteed. Slavery was prohibited, but it was provided that slaves escaping from other states into this territory should be returned to their masters. Strange as it may seem, the clause prohibiting slavery in this territory received the approval of delegates from every state.

Coming as almost the last act of Congress under the unsuccessful Articles of Confederation, this Ordinance gave Indiana its first permanent government under federal control.

For three years the territory was governed from Cincinnati. In 1799 William H. Harrison was elected a delegate to Congress, where he was appointed to head a committee to recommend a division of the territory. The territory of Indiana was created in 1800, which included Indiana, Michigan, Ohio, and Illinois, with the capital located at Vincennes. William Henry Harrison became governor and made an enviable record in dealing with the Indians, securing for the United States over thirty million acres of land. A legislative session was held in Vincennes in 1801, where laws were passed organizing the courts of justice. But not until 1807 did Indiana territory write its first code of laws.

Some of the provisions of the code are interesting. Horse stealing was punishable by death; the crimes of burglary and robbery were punishable by whipping, fine, and in some cases by imprisonment exceeding forty years. Paupers could be "farmed

WILLIAM HENRY HARRISON

out" for their maintenance to the lowest bidders. For altering brands on cattle a person might be branded on the hand with a letter "T" (for *thief*) burned in with a red-hot iron. The records show very few punishments ordered under the laws since the judicial system was unsatisfactory.

Territorial Growth and Expansion.

People were rushing to the territory. In 1810 the census showed a population of 24,520 and manufactured goods valued at $200,000.

This territory was settled in a different way. Here we find little foundation for the impression

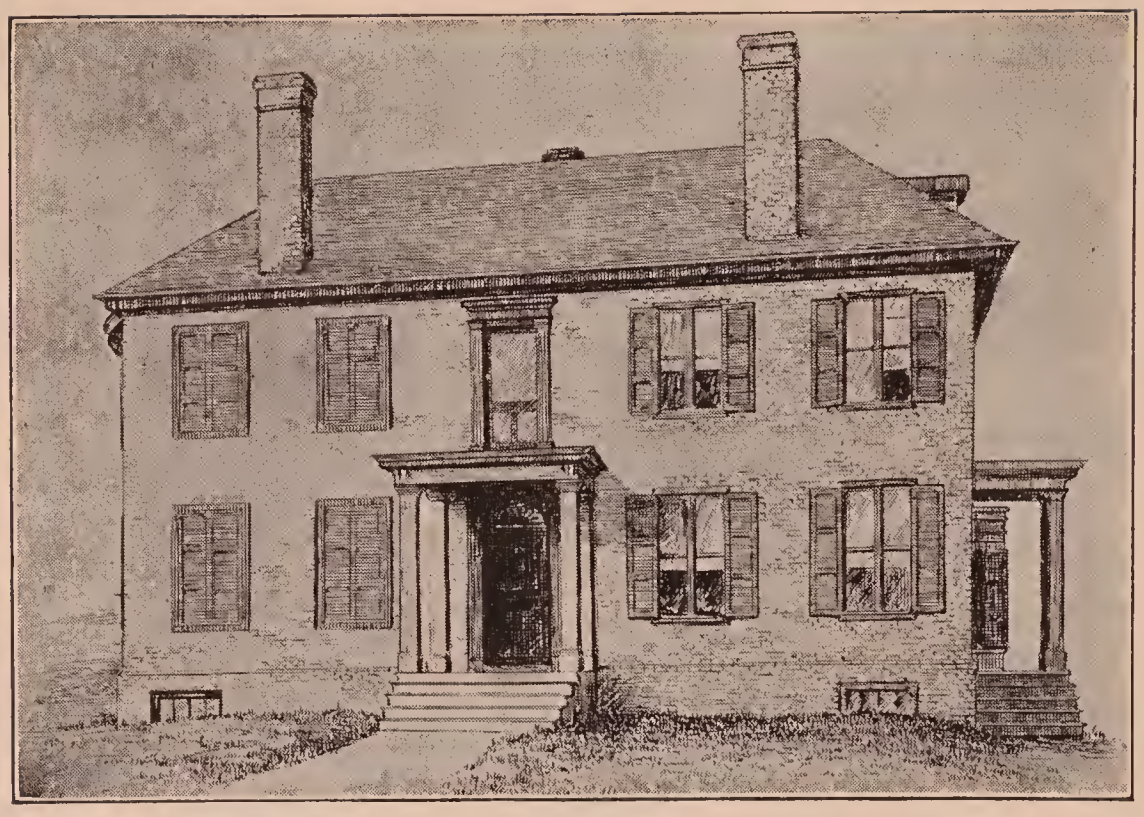
of early western settlement we often get from the stories we read, the plays we see in the theater, and on the screen.

There was not so much of the "wild west." Settlers came bringing their families; they established homes, and they were sincere in their demand for good government and education for their children. Here we have a country settled by families seeking homes rather than men seeking adventure. Soon they built their churches and schools, and organized their literary societies. As early as 1804 the Indiana *Gazette* was published at Vincennes, and in 1808 a library was established in the same city. Surely a new country settled under such circumstances was building well the foundation for the culture, education, and the high type of citizenship destined to later make their children citizens of a state influential in the nation's history.

Indiana a State (1816).

Attracting such settlers the state continued to grow in population until, five years later (1815), a census was taken showing the state in its thirteen counties and 3,897 more than the 60,000 necessary for statehood. At the request of the people Congress passed an Enabling Act fixing its boundaries and establishing its relation to the nation.

The federal government made a generous donation of one thirty-sixth of the land in each township for educational purposes and one entire township for a seminary of higher learning. Salt springs were also donated with necessary lands for working the same, and five per cent of the proceeds from the



HARRISON MANSION, VINCENNES

sale of public lands could be applied on building roads and canals. Four sections were to be selected from unsold government lands on which to build a capital city.

The First Constitution (1816).

One of the greatest responsibilities in forming a new state is the preparation of its constitution. For this purpose Indiana selected from its thirteen counties forty-three men of unquestioned patriotism and common sense. The wisdom of the territorial government plan under the Ordinance of 1787 was again evident. These men could now use the experience gained in territorial government. They prepared a restatement of the bill of rights found in the federal constitution, organized three departments of government common to our scheme of government, and

provided for education, elections, and public officers to make and to administer the laws. Very important were the provisions made for the change of government from territorial to state government, preserving the best of the laws already existing and bringing about the change without disturbing existing contracts and business conditions.

There were several notable departures. Punishment for crime was placed on the basis of "reformation and not vindictive justice." Provisions for homes of refuge were made for the unfortunate. A stand on the question of slavery, long in dispute, was taken by writing in the constitution the provision that "there shall be neither slavery nor involuntary servitude in this state."

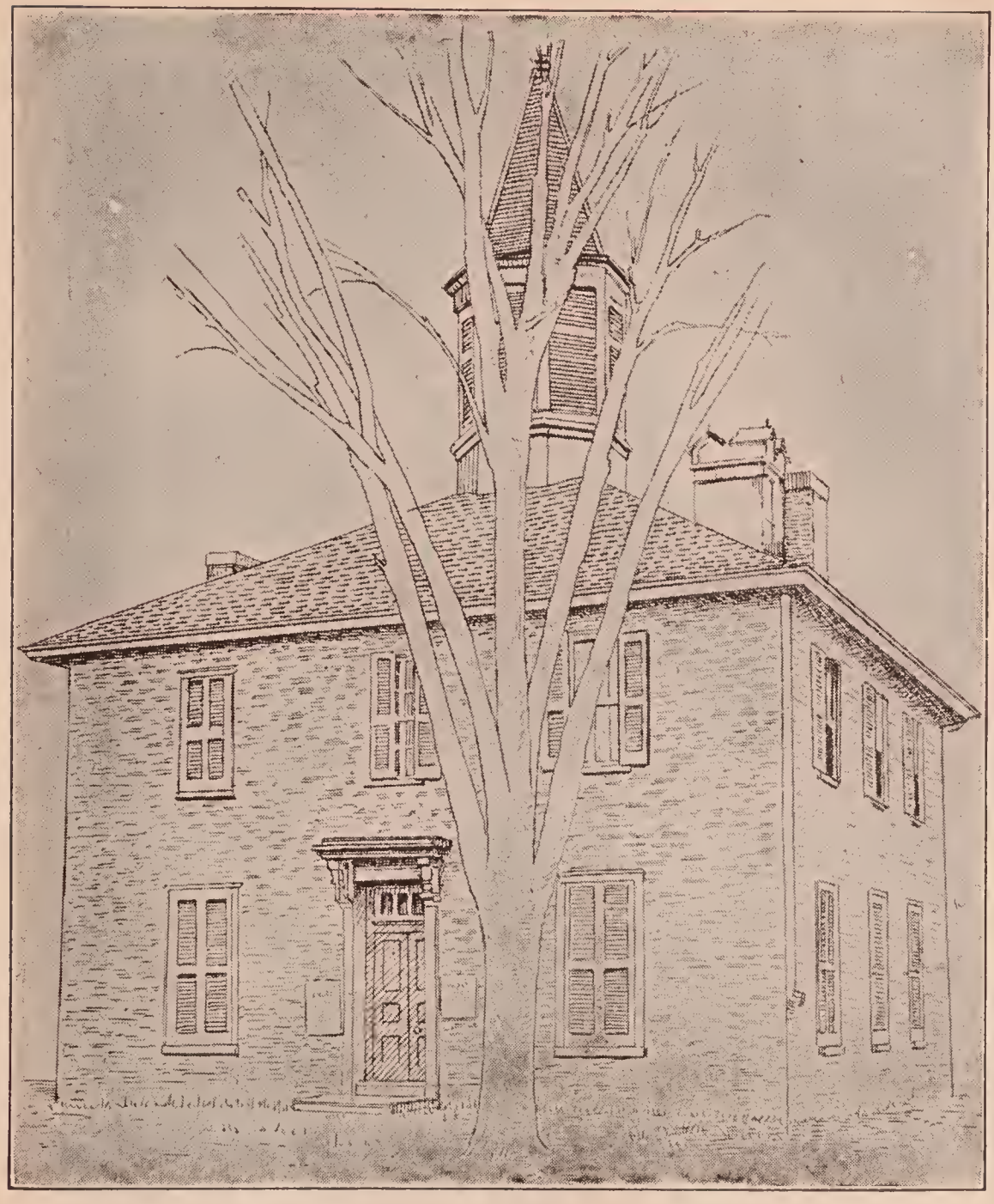
The first general election under the constitution was held in August, 1816. Jonathan Jennings, a man of great personal magnetism and experienced in Congress, was elected governor. William Hendricks, one of the most outstanding men in early Indiana political life, was elected to Congress. The legislature, consisting of ten senators and twenty-nine representatives, met the following November to make laws to better carry out the provisions of the Constitution.

Locating the Capital.

After the purchase of some eight millions of acres of land at approximately ten cents per acre from the Indians, the state territory was doubled in size. By an act of January 11, 1820, the general assembly appointed a commission of ten men to select a location for a new capital. You will remember that a

First Capitol at Vincennes

provision of the Ordinance of 1787 donated four sections of government land on which to build a capital city. The land was to be selected from unsold government lands. After visiting several locations the committee recommended the site of the present city of Indianapolis. So here, sixty miles from any settlement, was "the capital in the woods." There were no roads, no people, and no houses. The population was rapidly increasing, and surveyors at once started to lay out the streets in the woods. The legislators were slow in moving until conditions in Corydon and demands from Indianapolis finally caused the action. The old building used as a statehouse at Corydon was a rented structure, poorly adapted to the purpose and



THE CAPITOL AT CORYDON

now far from a central location. So in 1824 the capital was moved to Indianapolis, the population then numbering over five hundred. The Marion County courthouse was used as a statehouse until the "old capitol" was completed in 1835.

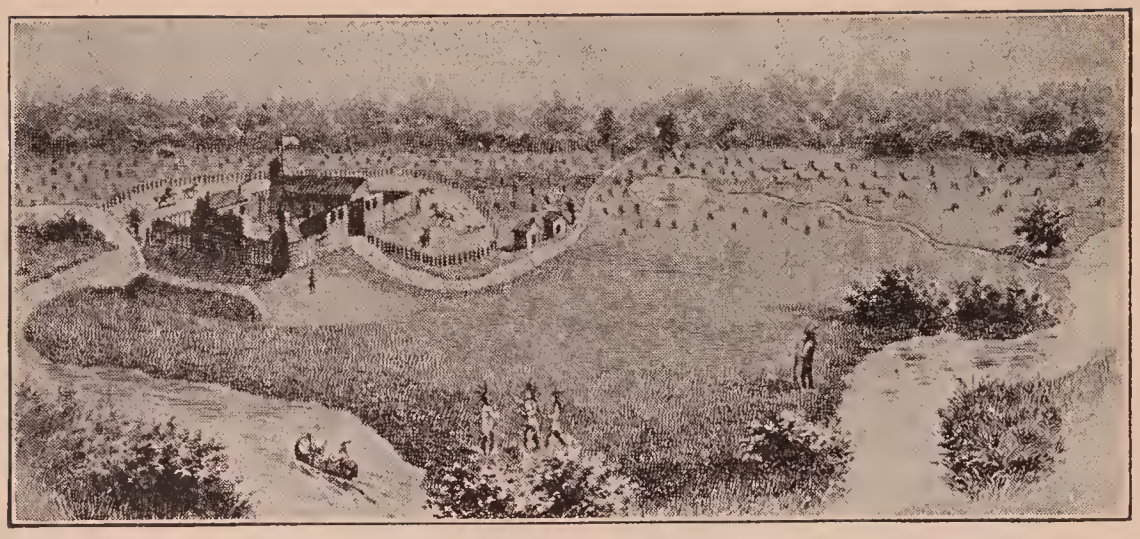
THE CAPITOL BUILDING AT INDIANAPOLIS

The Need for a New Constitution.

The Constitution of 1816 provided "that every twelfth year after this Constitution shall have taken effect . . . there shall be a poll opened in which the qualified voters of the state shall express by vote whether they are in favor of calling a convention or not." From time to time this matter was called to the attention of the voters, but whether from lack of interest or because of satisfaction with conditions, a convention was not called for this purpose. By 1850 conditions were not the same. The general assembly passed six or seven times more special and local than general laws.

Now the population had increased to nearly a million people. Some centers were so thickly populated that the people desired the right of making local laws that better applied to their particular community.

The old constitution did not impose restrictions on the creation of a public debt. Disgraceful conditions had resulted. Out of one bond issue of fifteen millions, four millions went for worthless securities and two millions were embezzled by public officials. The public debt was so large that the interest could not be paid. By compromise legislation the Wabash and Erie Canal was accepted by the creditors in full settlement for the debts owed by the state. While canals served their purpose in settling the state, they were disastrous financially. The land donated by the federal government was squandered. This amounted to almost a million and a half acres of land, twice as much as the whole donation of



FORT WAYNE IN 1795

lands for schools. So it is no wonder that the people desired a stricter safeguard for public funds and a more general banking law.

The people desired a better court system, also the privilege of electing their own judges. The treasurer, auditor, and other important officials were not elected by the people but appointed by the governor or general assembly. All of these and other problems were to be the basis for much of the discussion in the Convention.

The Constitution of 1851.

Indiana's second Constitutional Convention met in Indianapolis, October 7, 1850. This time there were fifty senatorial and one hundred representative delegates. Much time was given to educating the public through newspapers and periodicals distributed throughout the state.

After one hundred twenty-seven days' deliberation the proposed constitution was submitted and approved by a large majority of voters. It went into effect November 1, 1851, with little effect on

the machinery of government or business conditions. This constitution in Section XX removed from the legislature the power to make local and special laws, reserving this right for local divisions of government. It placed only general limits on the size of the general assembly. The most important officers of the state government were to be elected by the people.

Judges were elected by the people and a commission provided to revise and simplify court procedure.

Safeguards were made against excessive state debts. Biennial assemblies were substituted for annual assemblies.

From time to time some changes have been made to better fit the constitution to the demands of the people, but in the main it remains the same.

The next chapter develops the present constitution section by section.

No doubt any person desirous of becoming a better citizen will find much of interest and profit in the explanation and discussion of this constitution.

Questions

To the Pupil:

1. Describe the Indiana Territory when it was inhabited only by the Indian.
2. In your own city or community mention the inventions that have changed methods of doing work during the last fifty years.
3. Why are we indebted to George Rogers Clark? as citizens of Indiana? as citizens of the United States?

4. Where and under what conditions was the first government established north of the Ohio River?
5. How did the different states justify their claims to the Northwest Territory?
6. Give the reasons for ceding their claims to the United States government.
7. Why was governing the territory a difficult problem to the federal government?
8. Describe the rectangular land survey system.
9. What great advantages were given the people by the Ordinance of 1787?
10. Which provisions of the Ordinance of 1787 have been preserved in our present government?
11. Prepare a talk on "The Territorial Government of Indiana."
12. What effect did the class of people who settled in Indiana have on its future development?
13. When and how did Indiana become a state?
14. What other states were formed from the Northwest Territory? Why this number?
15. Describe government under the first constitution.
16. How was the capital located?
17. In what ways was the first constitution found unsuited to the needs of the people?
18. How did the constitution of 1851 remedy the situation?

CHAPTER IV

CONSTITUTION OF INDIANA, 1851

To the end that justice be established, public order maintained, and liberty perpetuated: We, the people of the state of Indiana, grateful to Almighty God for the free exercise of the right to choose our own form of government, do ordain this constitution.

Preamble.

A preamble is a statement of the reasons and intent of the makers of a constitution. Here the united people of Indiana recognize the value of democratic government, and are endeavoring to preserve it in compact form for you, their children.

"We, the people," is a term used first in our national Constitution. There it indicates one great consolidated government of all the people, rather than government by states, as the Articles of Confederation provided. It is the most outstanding phrase in democratic government. The phrase here emphasizes the fact that the state government of Indiana is a government "of the people, by the people, and for the people."

ARTICLE I

BILL OF RIGHTS

Natural Rights.

SECTION I. We declare, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that all power is inherent in the People; and that

all free governments are, and of right ought to be, founded on their authority, and instituted for their peace, safety, and well-being. For the advancement of these ends, the people have, at all times, an indefeasible right to alter and reform their government.

Democratic government is an outgrowth of natural desires for liberty.

In order to protect "good" citizens from those who abuse privileges, and do not contribute to the general welfare, certain precautions are necessary.

This section guarantees personal liberty, the right to manage one's affairs as long as he does not interfere with the rights of others, and even goes so far as to assure him peace of mind.

The power to form a new constitution is vested in the people rather than the legislature or officers of the government. This principle, "just powers from consent of the governed," was given to us in the language of the Declaration of Independence. Your government begins with the people, and the approval of the people guarantees its continuance.

Right to Worship.

SECTION II. All men shall be secured in their natural right to worship Almighty God, according to the dictates of their own consciences.

This section puts the "worship of Almighty God" above civil law. For centuries, civil liberty and religious liberty were regarded as inseparable, and were controlled in that way. Then came the founders of America, who made great sacrifices to show the real significance of religious liberty.

Roger Williams, no doubt, was responsible for

the development of religious liberty in America and in the world. Finally, the Constitutional Convention settled the question that the cause of liberty is best promoted by a complete separation of Church and State. Consequently, every state constitution recognizes the right of a citizen to worship without interference. This section is the source of the religious freedom enjoyed in your state.

Freedom of Thought.

SECTION III. No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.

An effort is made to not only guarantee religious liberty without individual interference but also from legislative interference. Under this section, no law can be passed to either control the method of worship or religious discussions.

No Preference to Any Creed.

SECTION IV. No preference shall be given, by law, to any creed, religious society, or mode of worship; and no man shall be compelled to attend, erect, or support, any place of worship, or to maintain any ministry, against his consent.

If a citizen can worship according to the dictates of his own conscience, he should be able to contribute to the support of religious organizations as he desires. Each section has back of it a long story of religious persecution, public taxation for religious purposes, interference with modes of worship, and efforts of other governments to hold their people to the religion favored by the rulers and handed down to the people. The Indiana Constitution, through this and other sections, has taken every precaution to guard against the revival of such practices.

No Religious Test.

SECTION V. No religious test shall be required, as a qualification for any office of trust or profit.

This section does not permit any one religious denomination to be recognized above another. Citizens of every religious belief are on the same basis as far as participating in or enjoying the privileges of state government.

No Money for Religious Institutions.

SECTION VI. No money shall be drawn from the treasury, for the benefit of any religious or theological institution.

In following the principle that the Church and State are separate and distinct institutions, it is reasonable that money raised by public taxation should not be used for religious purposes.

Religion of Witness.

SECTION VII. No person shall be rendered incompetent as a witness, in consequence of his opinion on matters of religion.

Regardless of his ideas on religion, a citizen shall be permitted to offer testimony. The witnesses regarded as incompetent are certain attorneys, physicians, and clergymen securing information in the course of their professional duties; a husband and wife possessing information regarded as confidential; and all insane persons.

Oath: How Administered.

SECTION VIII. The mode of administering an oath or affirmation, shall be such as may be most consistent with, and binding upon, the conscience of the person, to whom such oath or affirmation may be administered.

Witnesses, jurors, and various public officers are required to take an oath, or in some way assure the proper authorities that they will perform their

duties conscientiously and to the best of their ability.

This section further extends religious liberties so that each can do his part as a citizen regardless of his convictions.

Free Speech.

SECTION IX. No law shall be passed, restraining the free interchange of thought and opinion, or restricting the right to speak, write, or print, freely, on any subject whatever; but for the abuse of that right, every person shall be responsible.

In connection with the Sedition Act, the rights stated in this section were a problem of the federal government. The result of this national controversy and, in connection with it, evidence of the general disapproval of attempts to limit freedom of speech and press, no doubt helped to give you a guarantee of this right.

You have the right to express your ideas as outlined in this section as long as you have due cause or excuse.

If there is evidence that your statements are unfounded, that they give the public an unjust and unfavorable impression, the person so represented can prefer charges and secure protection through the courts. When the truth of the charge is established in the courts, a person so charged is found guilty of "libel."

The Truth in Libel.

SECTION X. In all prosecutions for libel, the truth of the matters alleged to be libelous may be given in justification.

From the discussion of the previous section we have the meaning of "libel." According to this sec-

tion if the words in question are *true*, the person charged as speaking or writing them cannot be held for "libel," whether they were made public in good faith or with intent to discredit.

Personal Security; Search or Seizure.

SECTION XI. The right of the people to be secured in their persons, houses, papers, and effects, against unreasonable search or seizure, shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

The resentment of our forefathers against the abuses prior to the Revolutionary War made possible this right. To-day, we are free from interference in our personal affairs. With sufficient cause, supported by a sworn statement of the person making the charge, a "search warrant" is issued. The sworn statement holds the maker responsible for false charges. An officer of the law makes the search for the property specified as being illegally held or concealed.

Courts Open to All.

SECTION XII. All courts shall be open; and every man, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase; completely, and without denial; speedily, and without delay.

For centuries before the people of the United States established this practice which underlies our whole system of justice, men were secretly accused and savagely persecuted. "No man's property is safe and no man's welfare is assured where justice is denied to the poor, or where crime goes unpunished; no state can prosper where human rights are

not respected." Delay is seldom for public benefit. If an accused person is guilty, he should be speedily punished; if he is innocent, he should be released without delay. Many cases find their way in the courts that could be settled by agreement on a common sense basis.

Good citizenship requires an occasional sacrifice if we are to receive its full benefits.

Rights of Accused.

SECTION XIII. In all criminal prosecutions, the accused shall have the right to a public trial by an impartial jury, in the county in which the offense shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor.

When a person is accused of a crime, written charges must be made by a grand jury, a larger and more representative body than a trial jury. When a person so charged is brought into the courts, the procedure against him must be without unwarranted delay. He must have a trial in public so that citizens may know of his treatment. He is entitled to know the charges made against him, provide or have provided lawyers for his defense, and hear witnesses testify against him in court. His lawyer has a part in selecting the jury in order that it may be composed of fair-minded men who will render an impartial decision.

Two jury commissioners for each county, appointed by the judge of the circuit court, select from the names of all the voters double the number

needed for jury service. The names are then filed with the clerk of the circuit court. From these names as drawn, jurors are selected for trial cases.

No Person Twice in Jeopardy.

SECTION XIV. No person shall be put in jeopardy twice for the same offense. No person, in any criminal prosecution, shall be compelled to testify against himself.

The first part of this section goes no farther than to forbid the retrial of a person found "not guilty." The second part relieves an accused person from testifying against himself. In other words, he "stands on his constitutional rights" and refuses to testify.

Unnecessary Rigor Prohibited.

SECTION XV. No person, arrested or confined in jail, shall be treated with unnecessary rigor.

The penalty for breaking the law and the treatment of the accused must be just. Accused persons in jail are more or less defenseless and should be free from abuse. This section serves to protect the accused against rigorous "third degree" methods sometimes used to exact a confession.

Prohibitions: Bail, Fines, and Punishments.

SECTION XVI. Excessive bail shall not be required. Excessive fines shall not be imposed. Cruel and unusual punishment shall not be inflicted. All penalties shall be proportioned to the nature of the offense.

Bail is allowed on presenting proper securities or money not beyond the means of the accused, but of sufficient amount to discourage flight and assure his presence at the trial. In both punishments and penalties we demand only just treatment. The American idea of justice is not vengeance.

SECTION XVII. Offenses, other than murder or treason, shall be bailable by sufficient sureties. Murder or treason shall not be bailable when the proof is evident, or the presumption strong.

Murder or Treason not Bailable.

When the crime and evidence against the accused justify, bail may be refused because it is not to the interest of law-abiding citizens to have at large people who commit major crimes against society. The punishment for major crimes is so severe that no sum of money (bail) is sufficient to guarantee return for trial.

SECTION XVIII. The penal code shall be founded on the principles of reformation, and not of vindictive justice.

Reformation the Basis.

This section applies to the penal laws as a system. Punishment by death has been determined as not in conflict with it. Just punishment, if it serves its purpose, should make a better citizen of one who violates the law.

SECTION XIX. In all criminal cases whatever, the jury shall have the right to determine the law and the facts.

Jury Determines Law and Facts in Criminal Cases.

This section gives jurors the authority to determine both the law and the facts in a criminal trial. In most constitutions a jury is limited to the determination of the facts. In this constitution they are judges of the law, including the constitution.

SECTION XX. In all civil cases, the right of trial by jury shall remain inviolate.

Civil Cases Tried by Jury.

A civil suit arises where a private right is to be protected or enforced between two persons or corporations. It often arises from failure to fulfill a

contract. Such parties may demand trial before a jury.

Compensation for Services and Property.

SECTION XXI. No man's particular services shall be demanded, without just compensation: No man's property shall be taken by law, without just compensation; nor, except in case of the state, without such compensation first assessed and tendered.

Where lawyers, physicians, or others are required to perform services for public benefit they are entitled to just compensation.

The power of "eminent domain" is the power of government to take private property for public use. This right is justified because an individual's desires many times must be sacrificed for public benefit. In earlier times land was taken for highways without payment. Now, a fair valuation is set and payment made to the owner before private property becomes public property. The last clause enables the state to enforce the collection of its taxes.

Imprisonment for Debt.

SECTION XXII. The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale, for the payment of any debt or liability hereafter contracted; and there shall be no imprisonment for debt except in case of fraud.

This guards against the former European custom of imprisonment for debts, many of which resulted from misfortune. If a debtor practices fraud to avoid payment of a debt, he may be imprisoned.

Property not to exceed $600 in value owned by a resident householder can be retained when a court orders the sale of property to satisfy debts.

SECTION XXIII. The general assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms, shall not equally belong to all citizens. **Equal Privileges to Citizens.**

Our government is based on the principle of "equal rights" to all citizens. Here even the lawmakers are prohibited from granting special privileges.

SECTION XXIV. No *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed. **No Ex Post Facto.**

An ex post facto law provides a penalty or increases the punishment for an act that took place before the law was passed.

The legislature cannot remove the obligations of a contract or the right of enforcing a contract by a legislative act. A good citizen abides by his contracts regardless of the consequences to himself.

SECTION XXV. No law shall be passed, the taking effect of which shall be made to depend upon any authority, except as provided in this constitution. **Constitution the Basis.**

This section is designed to make the constitution the highest authority in the state of Indiana. Laws are sometimes submitted to the people for approval before they are operative.

SECTION XXVI. The operation of the laws shall never be suspended, except by the authority of the general assembly. **Suspension of Laws.**

The general assembly, having authority to make the laws, is given the power to suspend them if necessary.

SECTION XXVII. The privileges of the writ of *habeas corpus* shall not be suspended, except in case of rebellion or invasion; and then, only if the public safety demand it. **Habeas Corpus.**

A writ of *habeas corpus* is a written order addressed by a judge to one who has a person in custody claimed without proof to be unlawfully held. It directs him to bring the person in court and show why he is detained, thus permitting a speedy trial.

Neither a President nor Congress can suspend a writ of *habeas corpus* by state courts.

Treason Defined.

SECTION XXVIII. Treason against the state shall consist only in levying war against it, and giving aid and comfort to its enemies.

Proof.

SECTION XXIX. No person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or upon his confession in open court.

Effect of Conviction

SECTION XXX. No conviction shall work corruption of blood, or forfeiture of estate.

The three sections are self-explanatory and practically the same as those in the federal constitution.

Right to Assemble; Instruct; Petition.

SECTION XXXI. No law shall restrain any of the inhabitants of the state from assembling together, in a peaceable manner, to consult for their common good; nor from instructing their representatives; nor from applying to the general assembly for redress of grievances.

Citizens may hold meetings and public discussions as long as their motives are for the best interests of good government. They may influence their representatives and petition either branch of the general assembly for relief.

Right to Bear Arms.

SECTION XXXII. The people shall have a right to bear arms, for the defense of themselves and the state.

Laws prohibiting the carrying of concealed weapons do not violate this section.

Military Power.

SECTION XXXIII. The military shall be kept in strict subordination to the civil power.

Civil power, meaning the will of the citizens, must prevail in a democracy. When military power continues long, the result is autocracy.

SECTION XXXIV. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor, in time of war but in a manner to be prescribed by law. **Quartering Soldiers.**

Turning to the Declaration of Independence, we find complaint against the king for "keeping among us in times of peace standing armies without the consent of our legislature." Early experiences convinced the people that the above section was necessary in a state constitution. A citizen's right to control his property is as necessary as his life and liberty.

SECTION XXXV. The general assembly shall not grant any title of nobility, nor confer hereditary distinctions. **No Titles of Nobility.**

Preventing class distinctions preserves the spirit of democracy.

SECTION XXXVI. Emigration from the state shall not be prohibited. **Emigration.**

The federal government relieves the states of much responsibility in determining the qualifications of its citizens. Since the United States is composed of the different states, there should be no restrictions that would compel people to live in a certain state.

SECTION XXXVII. There shall be neither slavery, nor involuntary servitude, within the state, otherwise than for the punishment of crime, whereof the party shall have been duly convicted. No indenture of any Negro or Mulatto, made or executed out of the bounds of the state, shall be valid within the state. **Slavery Prohibited.**

Now obsolete.

ARTICLE II

SUFFRAGE AND ELECTION

Equality in Elections.

SECTION I. All elections shall be free and equal.

The legislature does not have power to favor certain voters or candidates for office by making any special restrictions or by extending special privileges. Each voter is a "ruler" entitled to equal consideration in a representative government.

Qualifications of Voters.

SECTION II. In all elections not otherwise provided for by this constitution, every citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the state during the six months, and in the township sixty days, and in the ward or precinct thirty days immediately preceding such election, shall be entitled to vote in the township or precinct where he or she may reside.

Qualifications of all legal voters in Indiana:

(a) A native born or naturalized citizen of the United States.

(b) At least twenty-one years of age.

(c) A resident;

(1) Of the state, six months; (2) of the township, sixty days; (3) of the ward or precinct, thirty days prior to the election.

Non-resident Soldiers on Duty.

SECTION III. No soldier, seaman, or marine, in the army or navy of the United States, or their allies, shall be deemed to have acquired a residence in this state, in consequence of having been stationed within the same; nor shall any such soldier, seaman, or marine, have the right to vote.

This section is inserted because state constitutions provide that a soldier maintains his right to vote

at the place where he was qualified to vote before he entered the service of the state or nation. Section IV below gives the practice in your state.

SECTION IV. No person shall be deemed to have lost his residence in the state by reason of his absence, either on business of this state or of the United States. **Soldiers' Residence.**

SECTION V. [Stricken out by constitutional amendment of March 24, 1881.] **Obsolete.**

Not until 1881 did the voters strike out this section which refused the Negro the right to vote.

SECTION VI. Every person shall be disqualified from holding office, during the term for which he may have been elected, who shall have given or offered a bribe, threat, or reward, to procure his election. **Bribery.**

Bribery is the act of buying another's influence or action against the best interests of the public. A person who buys an office often expects to be compensated in some way and cannot be trusted to serve the best interests of the people.

SECTION VII. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or who shall agree to go out of the state to fight a duel, shall be ineligible to any office of trust or profit. **Challenge to Duel.**

Duelling has long since disappeared as a method of settling personal disputes. Citizens in a democracy could have little confidence in an officer who engages in or is a party to an unlawful contest.

SECTION VIII. The general assembly shall have power to deprive of the right of suffrage, and to render ineligible, any person convicted of an infamous crime. **Disfranchisement.**

Persons who are convicted of selling their votes lose the privilege of voting. The legislature is empowered to pass laws to remove the privilege of voting from those sentenced to the penitentiary. The right to vote, lost in this way, can only be restored through proper authorities.

Limitations on Office Holders.

SECTION IX. No person holding a lucrative office or appointment, under the United States or under this state, shall be eligible to a seat in the general assembly; nor shall any person hold more than one lucrative office at the same time, except as in this constitution expressly permitted: *Provided,* That offices in the militia to which there is attached no annual salary, and the office of deputy postmaster, where the compensation does not exceed ninety dollars per annum, shall not be deemed lucrative; *And provided also,* That counties containing less than one thousand polls, may confer the office of clerk, recorder, and auditor, or any two of said offices, upon the same person.

Political offices, if too attractive financially, might encourage undue influence to secure them.

Public interests are best served when the people are directly represented by officers devoting their entire time to one office. Certain offices, such as county commissioners, mayors of cities, etc., have been held lucrative.

Status of a Defaulter.

SECTION X. No person who may hereafter be a collector or holder of public moneys, shall be eligible to any office of trust or profit, until he shall have accounted for, and paid over, according to law, all sums for which he may be liable.

This section places a premium on proper handling of the people's money.

Temporary Appointment.

SECTION XI. In all cases in which it is provided, that an office shall not be filled by the same person more than a certain number of years continuously, an appointment *pro tempore* shall not be reckoned a part of that term.

A person appointed by the proper authority to fill a vacancy may continue to hold such office until his successor is duly elected and qualified. He may, however, if elected and qualified, hold the same office continuously for the specified period of years.

Voters Free from Arrest.

SECTION XII. In all cases, except treason, felony, and breach of the peace, electors shall be free from arrest, in going to elections, during their attendance there, and in returning from the same.

"Electors" here means voters. If a person is arrested when he is free from arrest, he can be released on a writ of *habeas corpus*. Note the exceptions in this section.

Elections by Ballot.

SECTION XIII. All elections by the people shall be by ballot; and all elections by the general assembly, or by either branch thereof, shall be *viva voce*.

The provision requiring elections by ballot does not prevent the now quite common use of the voting machine. An election *viva voce* in the general assembly consists in taking a vote by calling the roll, each member answering as his name is called.

Elections.

SECTION XIV. All general elections shall be held on the first Tuesday after the first Monday in November, but township elections may be held at such time as may be provided by law: *Provided,* That the general assembly may provide by law for the election of all judges of courts of general or appellate jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for; and shall also provide for the registration of all persons entitled to vote.

General elections are held for the election of state, county, township, city, and national offices on the first Tuesday after the first Monday in November.

Regular elections for state and local officers and members of Congress are held every two years in the even years. City elections are held every four years in odd years.

Candidates are nominated for these elections at the primaries. Only the political parties casting ten per cent or more of the total vote in the last election are entitled to a vote for their party candidates in the primary election held on the first Monday in May immediately preceding the general election. The successful candidates of each party in the primaries become the candidates of their respective parties in the general election.

Elections are conducted by the Australian ballot system. A qualified voter marks his ballot in secret. Certain judges are elected on off political years because the duties of a judge are such that his office should be removed as far as possible from politics.

ARTICLE III

DISTRIBUTION OF POWERS

Departments of Government.

SECTION I. The powers of the government are divided into three separate departments: The legislative, the executive including the administrative, and the judicial; and no person charged with official duties under one of these departments, shall exercise any of the functions of another, except as in this constitution expressly provided.

Similar to the organization of the national government, this section provides for legislative (law making), executive (law enforcing), and judicial (law interpreting) departments. The value of such

an organization permits one department to check and balance the other.

The prohibitive clause forbids one department of state government from interfering in or encroaching on the powers that belong to another.

ARTICLE IV

LEGISLATIVE

General Assembly.

SECTION I. The legislative authority of the state shall be vested in a general assembly, which shall consist of a senate and house of representatives. The style of every law shall be: "Be it enacted by the general assembly of the state of Indiana"; and no law shall be enacted, except by bill.

Lawmaking powers are delegated to a senate not exceeding fifty members and a house of representatives not exceeding one hundred members, making a total of one hundred and fifty members who compose the general assembly.

The two-house system is similar to the organization of the federal government. A law must be enacted as a bill, beginning as indicated in this section. Bills are often "killed" by taking a vote to strike out the "enactment clause."

Number.

SECTION II. The senate shall not exceed fifty, nor the house of representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts, into which the state may, from time to time, be divided.

The constitution of 1816 provided that the general assembly should consist of ten senators and twenty-nine representatives. In 1836 the number of representatives was increased to one hundred, and in 1841 the number of senators to fifty. Since

the adoption of this constitution in 1851 the maximum has remained fixed at fifty senators and one hundred representatives. The legal voters in their respective counties or districts elect senators and representatives.

Term of Office.

SECTION III. Senators shall be elected for the term of four years and representatives for the term of two years, from the day next after their general election: *Provided, however,* That the senators elect, at the second meeting of the general assembly under this constitution, shall be divided by lot, into two equal classes, as nearly as may be; and the seats of senators of the first class shall be vacated at the expiration of two years, and those of the second class, at the expiration of four years; so that one half as nearly as possible, shall be chosen biennially forever thereafter. And in case of increase in the number of senators, they shall be so annexed, by lot, to the one or the other of the two classes, as to keep them as nearly equal as practicable.

Senators are elected for a four-year term. The terms of one half the senators expire every two years. The last part of this section is largely historical but explains the method used to classify senators when the plan was placed in operation.

Representatives are elected every two years. Both senators and representatives begin their terms on the next day after election and both may be elected for an unlimited number of terms. Members of the house who make a good record are often elected to serve in the senate. Over thirty representatives and about fifteen senators are now serving in the general assembly who have been members before.

Enumeration of Voters.

SECTION IV. The general assembly shall, at its second session after the adoption of this constitution, and every sixth

year thereafter, cause an enumeration to be made of all the male inhabitants over the age of twenty-one years.

The last official count of voters was made in 1925. A map showing the enumeration and districts can be secured from the Legislative Reference Bureau at Indianapolis.

Apportionment.

SECTION V. The number of senators and representatives shall, at the session next following each period of making such enumeration, be fixed by law, and apportioned among the several counties, according to the number of male inhabitants, above twenty-one years of age in each: *Provided,* That the first and second elections of members of the general assembly, under this constitution, shall be according to the apportionment last made by the general assembly, before the adoption of this constitution.

Districts Contiguous.

SECTION VI. A senatorial or representative district, where more than one county shall constitute a district, shall be composed of contiguous counties; and no county for senatorial apportionment, shall ever be divided.

"Apportionment" consists in dividing the total voting population secured by the official count or enumeration taken as required in Section IV by the number of senators and representatives. Dividing the total voting population by fifty we get the average number of voters for each senatorial district, and dividing by one hundred we get the average number of voters for each representative district. This average is then compared with the population of the county. Marion County, for example, has ten times more voting population than the average number for each representative and would consequently be entitled to ten representatives and five senators. If enumeration figures are small, as in Newton County, we select a county that immedi-

ately joins Newton, or, in other words, is contiguous to it. In this case we will add Jasper, an adjoining county; but still the district does not contain the required average for one representative, so we add Benton, another county contiguous to Newton. The three counties have just enough voting population to constitute a legislative district and to elect one representative. It will be necessary to add other counties to get the average number for a senatorial district. The voters in most representative districts elect one representative and in most senatorial districts one senator.

Qualifications of Members.

SECTION VII. No person shall be a senator or a representative who, at the time of his election, is not a citizen of the United States; nor any one who has not been, for two years next preceding his election, an inhabitant of this state, and, for one year next preceding his election, an inhabitant of the county or district whence he may be chosen. Senators shall be at least twenty-five, and representatives at least twenty-one years of age.

Citizenship and residence requirements are the same for both senators and representatives. The only difference in qualifications is age. The longer term necessitating election only half as often as representatives, and the fact that the senate is the senior lawmaking body and thought to be more conservative, justifies the difference in age requirements.

Freedom from Arrest.

SECTION VIII. Senators and representatives in all cases except treason, felony, and breach of the peace, shall be privileged from arrest, during the session of the general assembly, and in going to and returning from the same; and shall not be subject to any

civil process, during the session of the general assembly, nor during the fifteen days next before the commencement thereof. For any speech or debate in either house, a member shall not be questioned in any other place.

This section assures the people that there will be no interference with the men who make their laws. This exemption is designed to protect the interests of the people and not the office holder. The constitution permits a member to speak fearlessly in the interests of the people who elected him. This places the responsibility on the lawmaker. Evidence that a member is guilty of the crimes excepted would give us just cause to question his qualifications for making our laws.

Sessions.

SECTION IX. The sessions of the general assembly shall be held biennially at the capital of the state, commencing on the Thursday next after the first Monday of January, in the year one thousand eight hundred and fifty-three, and on the same day of every second year thereafter, unless a different day or place shall have been appointed by law. But if, in the opinion of the governor, the public welfare shall require it, he may at any time by proclamation, call a special session.

The legislature meets in regular session on the first Thursday after the first Monday in January in every odd year. The length of the session is limited to sixty-one days, including Sundays and holidays. When the governor, in an emergency, calls a special session of the general assembly, the powers of the two bodies are the same as when in regular session.

Officers.

SECTION X. Each house, when assembled, shall choose its own officers, the president of the senate excepted; judge the elections, qualifications and returns of its own members; determine its

rules of proceeding, and sit upon its own adjournment. But neither house shall, without the consent of the other, adjourn for more than three days nor to any place other than that in which it may be sitting.

The lieutenant-governor is elected by the people as president of the senate by right of office. Other officers in the senate are a president pro tem., principal secretary, and principal doorkeeper. Similar to the plan of the national government each house passes on the qualifications of its members, and the house closest to the people elects its own officers. Officers of the house are a speaker, chief clerk, assistant clerk, and doorkeeper. Since the action of one house is more or less dependent on the other, both should be in session at the same time and at the same place to avoid unnecessary delay.

Quorum.

SECTION XI. Two-thirds of each house shall constitute a quorum to do business; but a smaller number may meet, adjourn from day to day, and compel the attendance of absent members. A quorum being in attendance, if either house fail to effect an organization within the first five days thereafter, the members of the house so failing, shall be entitled to no compensation, from the end of the said five days, until an organization shall have been effected.

At least thirty-four senators and sixty-seven representatives must be present before business can be conducted.

This section hastens the early organization of the two houses of the general assembly with the penalty of completing the organization without salary if the delay is prolonged beyond five days.

SECTION XII. Each house shall keep a journal of its proceedings, and publish the same. The yeas and nays, on any question, shall, at the request of any two members, be entered, together with the names of the members demanding the same, on the journal; *Provided*, That on a motion to adjourn, it shall require one-tenth of the members present to order the yeas and nays. **Journal of Proceedings.**

A recorded vote demanded by two members places a representative on record so that there is no doubt in the minds of the citizens he represents as to the manner in which he is carrying out their wishes. More members are required to record a vote because adjournment by an unrecorded vote of a smaller number might be called to delay legislation, yet, at times, adjournment and delay may be for public benefit. At any rate the individual responsibility together with the reason for adjournment fixes the responsibility.

SECTION XIII. The doors of each house, and of committees of the whole, shall be kept open, except in such cases, as, in the opinion of either house, may require secrecy. **No Secrecy.**

Most legislation can be conducted openly because a legislator's business is public business.

Legislation that may affect business conditions is sometimes carried on behind closed doors and released to the general public so that no single class can profit thereby at the expense of other citizens.

SECTION XIV. Either house may punish its members for disorderly behavior, and may, with the concurrence of two-thirds, expel a member; but not a second time for the same cause. **Conduct of Members.**

Since members are exempted from arrest, either house is given the power to control its own members by expulsion, if necessary. One of our prin-

ciples of government is that a court is never allowed a second opportunity to convict the same person for the same cause.

Disorderly Punished.

SECTION XV. Either house during its session, may punish, by imprisonment, any person not a member, who shall have been guilty of disrespect to the house, by disorderly or contemptuous behavior in its presence; but such imprisonment shall not at any time exceed twenty-four hours.

A certain dignity must be preserved by our lawmakers. The chosen representatives of the people are entitled to insist on the respectful and orderly conduct of outsiders while either house is in session. It is usually sufficient to remove any disturber who persists in annoyance.

Unforeseen Powers Delegated.

SECTION XVI. Each house shall have all powers, necessary for a branch of the legislative department of a free and independent state.

This clause anticipates difficulties that may arise for which this constitution has made no definite provision.

Revenue Bills.

SECTION XVII. Bills may originate in either house, but may be amended or rejected in the other; except that bills for raising revenues shall originate in the house of representatives.

As in the federal government, all bills for the expenditure of money originates in the house of representatives. Because of the manner and mode of election of its members, this body was intended to be more representative of the people. The senate, however, is given power to check such bills. All other bills may originate in either house, but are subject to action in the other.

SECTION XVIII. Every bill shall be read, by sections, on three several days, in each house; unless in case of emergency, two-thirds of the house where such bill may be pending shall, by vote of yeas and nays, deem it expedient to dispense with this rule; but the reading of a bill by sections, on its final passage, shall, in no case, be dispensed with; and the vote on the passage of every bill or joint resolution shall be taken by yeas and nays. **Bills Reading and Vote.**

In the rush of the final days of the session instead of reading the bills on three several days as this section provides, the rules are often suspended by a two-thirds vote. Many bills are passed in accordance with the last two requirements of the section. This is not the best practice because there is not sufficient time for the people to realize the effect of such bills and consult their representatives. Then it does not give the legislators themselves sufficient time for a thorough consideration to every measure. Less legislation, carefully planned and discussed, is productive of the best results. The work of hearing citizens who favor or oppose proposed legislation, revising bills, and reporting on them favorably or unfavorably is done largely in committees.

SECTION XIX. Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title. **Laws Embrace One Subject.**

This paragraph requires every act to cover a single subject with the title worded to give the public in general an idea of the subject matter and lead to an inquiry as to the entire bill. This plan makes

the language of acts more or less uniform and serves to guard against undesirable features that could be concealed from the average citizen when the bill is proposed. Again, acts do not embrace more than one subject because other laws may refer to the same subject and difficulty would be experienced in combining them.

Wording an Act.

SECTION XX. Every act and joint resolution shall be plainly worded, avoiding, as far as practicable, the use of technical terms.

The use of common terms, the meaning of which have been determined by the courts, cause less controversy.

Amended Acts Published.

SECTION XXI. No act shall ever be revised or amended by mere reference to its title; but the act revised, or section amended, shall be set forth and published at full length.

Publishing the entire act or section in its amended form rather than amending by title serves to avoid confusion.

Laws Not to be Passed.

SECTION XXII. The general assembly shall not pass local or special laws, in any of the following enumerated cases, that is to say:

Regulating the jurisdiction and duties of justices of the peace and of constables;

For the punishment of crimes and misdemeanors;

Regulating the practice in courts of justice;

Providing for changing the venue in civil and criminal cases;

Granting divorces;

Changing the names of persons;

For laying out, opening and working on highways, and for the election or appointment of supervisors;

Vacating roads, town plats, streets, alleys and public squares;

Summoning and empaneling grand and petit juries, and providing for their compensation;

Regulating county and township business;

Regulating the election of county and township officers, and their compensation;

For the assessment and collection of taxes for state, county, township or road purposes;

Providing for supporting common schools, and for the preservation of school funds;

In relation to fees or salaries; except that the laws may be so made as to grade the compensation of officers in proportion to the population, and the necessary services required;

In relation to interest on money;

Providing for opening and conducting elections of state, county, or township officers, and designating the places of voting;

Providing for the sale of real estate belonging to minors, or other persons laboring under legal disabilities, by executors, administrators, guardians, or trustees.

Experiences resulting from the first constitution caused the people to demand the right to make their local and special laws in local departments of government. It is interesting to examine carefully each item and justify its restriction from action by the general assembly.

Only laws of state-wide application and of a general nature are passed by the general assembly. Section XXIII below will help you form an opinion.

Laws General.

SECTION XXIII. In all the cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the state.

The legislature is required to make laws general throughout the state if possible. Citizens of representative governments favor uniformity in laws with few exceptions.

Suits Against the State.

SECTION XXIV. Provisions may be made, by general law, for bringing suit against the state, as to all liabilities originating after

the adoption of this constitution; but no special act authorizing such suit to be brought, or making compensation to any person claiming damages against the state, shall ever be passed.

Under this section an act was passed in 1889 authorizing suits against the state. Suits are brought in the Superior Court in Marion County and heard by all the judges, sitting together, who act as a jury.

Majority Can Pass Bills.

SECTION XXV. A majority of all the members elected to each house, shall be necessary to pass every bill or joint resolution; and all bills and joint resolutions so passed shall be signed, by the presiding officers of the respective houses.

A bill receiving the majority vote of both houses signed by the president of the senate and the speaker of the house is sent to the governor for his consideration.

Protests Recorded.

SECTION XXVI. Any member of either house shall have the right to protest, and to have his protest with his reasons for dissent, entered on the journal.

A member in the minority is given an opportunity by this section to keep faith with the people who elected him, and the general public is permitted to consider and value his reasons for protest.

Public Laws.

SECTION XXVII. Every statute shall be a public law, unless otherwise declared in the statute itself.

Public laws are general laws. Unless definitely stated in a bill that it applies to an individual case, it shall be considered general rather than specific.

Publication of Statutes.

SECTION XXVIII. No act shall take effect, until the same shall have been published and circulated in the several counties of this state by authority, except in case of emergency; which emergency shall be declared in the preamble or in the body of the law.

Acts which have an emergency clause become effective as soon as signed by the governor. Other laws enacted by the general assembly are not ready to be made effective until after they are published, distributed, and filed with all the county clerks of the state. In this way the people are advised as to the provisions of the law, by the time it becomes effective, with the governor's proclamation.

Pay of Members.

SECTION XXIX. The members of the general assembly shall receive for their services, a compensation to be fixed by law; but no increase of compensation shall take effect during the session at which such increase may be made. No session of the general assembly, except the first under this constitution, shall extend beyond the term of sixty-one days, nor any special session beyond the term of forty days.

The members of the general assembly receive six dollars per day and twenty cents per mile for a round trip from their homes and return.

The time limit for a session is fixed by this section at sixty-one days for a regular session and forty days for a special, including Sundays and holidays. Members should not profit by salary increases made for themselves unless they receive the approval of the people by being elected for another term. Legislation is planned for public rather than private benefit.

When Members Are Ineligible.

SECTION XXX. No senator or representative shall, during the term for which he may have been elected, be eligible to any office, the election to which is vested in the general assembly; nor shall he be appointed to any civil office of profit, which shall have been created or the emoluments of which shall have been increased,

during such term; but this latter provision shall not be construed to apply to any office elective by the people.

This section does not allow a legislator to place his own interests or ambitions above those of the public he represents. Every effort is made to guard against private and personal gain.

ARTICLE V

EXECUTIVE

Governor.

SECTION I. The executive powers of the state shall be vested in a governor. He shall hold his office during four years, and shall not be eligible more than four years, in any period of eight years.

The governor is the chief executive officer of the state, but in that capacity he does not bear nearly the same relation to the state as the President does to the nation. He receives his power from the legislature, has little control over his associates in office, and no immediate control over sheriffs, police officers, or prosecutors. The use of the militia in executing the laws is his most effective source of power in an emergency. Note his term of office and eligibility to reëlection.

Lieutenant-Governor.

SECTION II. There shall be a lieutenant-governor, who shall hold his office during four years.

Time and Place of Election.

SECTION III. The governor and lieutenant-governor shall be elected at the times and places of choosing members of the general assembly.

Manner of Voting.

SECTION IV. In voting for governor and lieutenant-governor, the electors shall designate, for whom they vote as governor, and for whom as lieutenant-governor. The returns of every election for governor and lieutenant-governor shall be sealed up

and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall open and publish them in the presence of both houses of the general assembly.

Tie Vote.

SECTION V. The persons, respectively, having the highest number of votes for governor and lieutenant-governor, shall be elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the general assembly shall, by joint vote, forthwith proceed to elect one of the said persons governor or lieutenant-governor, as the case may be.

Election Contested.

SECTION VI. Contested elections for governor or lieutenant-governor, shall be determined by the general assembly, in such manner as may be prescribed by law.

Besides being president of the senate the lieutenant-governor, who is elected at the same time, in the same manner, with the same term and qualifications as the governor, is also held in reserve to take his place and become acting governor in an emergency. According to Section IV both houses in joint assembly settle election contests and are final judges of the election of both officers. An unquestioned majority elects, but in case of a contest or tie (Section V) between two candidates for the same office both houses by joint vote elect a governor and lieutenant-governor. Contests for these offices cannot be tried in the courts.

Qualifications.

SECTION VII. No person shall be eligible to the office of governor or lieutenant-governor who shall not have been five years a citizen of the United States, and also a resident of the state of Indiana during the five years next preceding his election; nor shall any person be eligible to either of the said offices, who shall not have attained the age of thirty years.

The minimum age of a governor is five years more than that of a senator, and his citizenship and residence requirements must extend over a much longer period. Throughout his term he is required to reside in Indianapolis.

See Section VII, Article IV.

Office Holders Ineligible.

SECTION VIII. No member of Congress, or person holding any office under the United States or under this state, shall fill the office of governor or lieutenant-governor.

This is merely another way of stating part of Section IX, Article II.

Term of Office Begins.

SECTION IX. The official term of the governor or lieutenant-governor shall commence on the second Monday of January, in the year one thousand eight hundred fifty-three; and on the same day every fourth year thereafter.

The two officers are elected every four years the first Tuesday after the first Monday in November and do not take office until the second Monday in January.

Vacancies.

SECTION X. In case of the removal of the governor from office, or of his death, resignation, or inability to discharge the duties of the office, the same shall devolve on the lieutenant-governor; and the general assembly shall, by law, provide for the case of removal from office, death, resignation, or inability, both of the governor and lieutenant-governor, declaring what officer then shall act as governor; and such officer shall act accordingly, until the disability be removed or a governor be elected.

President of Senate.

SECTION XI. Whenever the lieutenant-governor shall act as governor, or shall be unable to attend as president of the senate, the senate shall elect one of its own members as president for the occasion.

The lieutenant-governor holds a similar office to that of Vice-President of the United States. In case

of his inability to serve, the senate has the power to elect one of its own number president. When for the causes stated the state is without both a governor and lieutenant-governor, the president of the senate acts as governor until the vacancy is filled.

Governor Commander-in-chief.

SECTION XII. The governor shall be commander-in-chief of the military and naval forces, and may call out such forces, to execute the laws, or to suppress insurrection or to repel invasion.

A governor is given military power so that he can better enforce the laws and protect the citizens when public necessity requires it.

Governor's Message.

SECTION XIII. He shall from time to time give to the general assembly information touching the condition of the state, and recommend such measures as he shall judge to be expedient.

The governor's message outlines his program and plans and treats of the problems and needs of the state, usually with suggestions or recommendations for their solution. His message is read before a joint session of the general assembly shortly after the session begins. Special messages are often submitted during the session. Citizens should read the messages of their governor.

How Bills Become Laws.

SECTION XIV. Every bill which shall have passed the general assembly shall be presented to the governor; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it shall have originated; which house shall enter the objections, at large, upon its journals, and proceed to reconsider the bill. If, after such reconsideration, a majority of all the members elected to that house shall agree to pass the bill, it shall be sent, with the governor's objections, to the other house

by which it shall likewise be reconsidered; and, if approved by a majority of all the members elected to that house, it shall be a law. If any bill shall not be returned by the governor within three days, Sundays excepted, after it shall have been presented to him, it shall be a law, without his signature, unless the general adjournment shall prevent its return; in which case it shall be a law, unless the governor, within five days next after such adjournment, shall file such bill, with his objections thereto, in the office of the secretary of state; who shall lay the same before the general assembly at its next session, in like manner as if it had been returned by the governor. But no bill shall be presented to the governor, within two days next previous to the final adjournment of the general assembly.

This section provides three ways by which a bill becomes a law:

(1) When passed by both houses and signed by the governor;

(2) When returned unsigned to the house in which it originated with the governor's objections and, after reconsideration, is approved by a majority of both houses;

(3) When passed by both houses and is retained by the governor for more than three days (Sundays excepted) while the legislature is in session.

No bill shall be presented to the governor during the last two days of the session. If adjournment prevents the return of a bill, the governor is given five days to file objection with the secretary of state for consideration at the next session. The governor can only approve or veto a bill as a whole.

Governor May Demand Publicity.

SECTION XV. The governor shall transact all necessary business with the officers of government, and may require information in writing from the offices of the administrative department, upon any subject relating to the duties of their respective offices.

The governor's chief power over the officers of the administrative department is in his authority to demand information in writing relative to each department. This general power necessary in the proper transaction of the business of the state gives him an opportunity to know the conditions of any department and give publicity to irregularities.

Execution of Laws.

SECTION XVI. He shall take care that the laws be faithfully executed.

Pardoning Power.

SECTION XVII. He shall have the power to grant reprieves, commutations, and pardons, after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the general assembly, at its next meeting; when the general assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the general assembly, at its next meeting, each case of reprieve, commutation, or pardon granted, and also the names of all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted: *Provided, however,* That the general assembly may, by law, constitute a council, to be composed of officers of state, without whose advice and consent the governor shall not have power to grant pardons, in any case, except such as may, by law, be left to his sole power.

Besides having the responsibility for the enforcement of the laws the governor may grant reprieves or delayed sentences, commuted or lessened sentences, and full pardons for all offenses committed against the state, but he cannot grant a pardon before the conviction of the offender. He has the

advice of the state board of pardons consisting of three members appointed by himself for a term of four years. They investigate all petitions presented to the governor and keep records on each case. In the judgment of the governor a prisoner may be set at liberty—that is, paroled—as long as he conducts himself properly. If he breaks his parole, he may be arrested and made to serve out his sentence without trial.

Recess Appointments.

SECTION XVIII. When, during a recess of the general assembly, a vacancy shall happen in any office, the appointment to which is vested in the general assembly; or when, at any time, a vacancy shall have occurred in any other state office, or in the office of judge of any court; the governor shall fill such vacancy, by appointment, which shall expire, when a successor shall have been elected and qualified.

SECTION XIX. He shall issue writs of election to fill such vacancies as may have occurred in the general assembly.

SECTION XX. Should the seat of government become dangerous from disease or a common enemy, he may convene the general assembly at any other place.

When the general assembly is not in session the governor assumes its appointive powers. This enables the business of government to be conducted without undue delay. He may also change the place of meeting of the assembly if extraordinary conditions demand it.

Duties of Lieutenant-Governor.

SECTION XXI. The lieutenant-governor shall, by virtue of his office, be president of the senate; have a right, when in committee of the whole, to join in debate, and to vote on all subjects; and, whenever the senate shall be equally divided, he shall give the casting vote.

The lieutenant-governor is president of the senate, votes on all subjects when in committee of the whole, and casts the deciding vote in case of a tie. It is not definitely settled as to whether he can vote on the passage of bills and joint resolutions in any case.

Salary of Governor and Lieutenant-Governor.

SECTION XXII. The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished, during the term for which he shall have been elected.

SECTION XXIII. The lieutenant-governor, while he shall act as president of the senate, shall receive, for his services, the same compensation as the speaker of the house of representatives; and any person, acting as governor, shall receive the compensation attached to the office of governor.

Eligibility to Other Offices.

SECTION XXIV. Neither the governor nor lieutenant-governor shall be eligible to any other office, during the term for which he shall have been elected.

The governor's salary is fixed by law and is now $8,000 per year. The salary of the lieutenant-governor is $1,000 per year in addition to eight dollars per day which he receives during the session. If he becomes governor, he receives the salary for that position. Restrictions on members of the assembly covering benefits from salary increases and holding other offices also apply to the governor and lieutenant-governor.

ARTICLE VI

ADMINISTRATIVE

Secretary. Auditor. Treasurer.

SECTION I. There shall be elected, by the voters of the state, a secretary, an auditor and a treasurer of state, who shall, severally, hold their offices for two years. They shall perform such duties as may be enjoined by law; and no person shall be eligible

to either of said offices, more than four years in any period of six years.

The officers mentioned in this section are elected for terms of two years, required to reside at Indianapolis (Section V), and are limited to two terms in six years. Besides regular duties they are members of many important committees.

The secretary of state is custodian of the Great Seal of Indiana and affixes it to all public documents; keeps all state papers; distributes public documents to citizens requesting them; issues charters for corporations; issues automobile licenses. His salary is $6,500.

The state auditor is "watchdog of the state treasury." He is the state bookkeeper, intrusted with the disbursement and collection of all state funds. He supervises all state banks, trust companies, savings banks, pawnbrokers, building and loan, and mortgage guarantee companies doing business in the state. His books must balance with those kept by the state treasurer, since he draws the warrants to be paid. Every two years he reports to the general assembly a complete statement of the income and possible expenditures of the state for the next two years, so that a budget can be prepared. His salary is $7,500.

The state treasurer has charge of all state funds and pays them out on warrants issued by the auditor. He is required to deposit all money the next day after received in banks designated by the state board of finance, which is composed of the governor,

auditor, and treasurer. All interest collected from banks on state funds is turned over to the state. His salary is $7,500.

County Officers.

SECTION II. There shall be elected, in each county by the voters thereof, at the time of holding general elections, a clerk of the circuit court, auditor, recorder, treasurer, sheriff, coroner, and surveyor. The clerk, auditor, and recorder shall continue in office four years; and no person shall be eligible to the office of clerk, recorder, or auditor more than eight years in any period of twelve years. The treasurer, sheriff, coroner, and surveyor shall continue in office two years; and no person shall be eligible to the office of treasurer or sheriff more than four years in any period of six years.

The county is the largest local government within the state and touches directly the greatest number of people. Indiana has ninety-two counties, Allen County being the largest and Ohio County the smallest. The principal work of the county is to construct and maintain roads, bridges, and county property; create townships; control local charity service; administer justice; levy and collect taxes; issue marriage licenses; record land titles; promote agriculture; control disease; register voters; and control elections.

County officers are listed below, together with their duties. The number after each office indicates the length of term in years.[1]

The board of commissioners (3), consisting of three members from the three commissioner districts into which the county is divided, are the chief county officers and have general administrative charge of all the county work listed above. The

[1] See Section IV for qualifications.

county council (4), consisting of seven members, authorizes bond issues, passes on the budget, fixes the tax levy, and passes appropriation ordinances.

The county board of education consists of the township trustees, the county superintendent of schools, and the president of each school board in the county. It holds monthly meetings with the county superintendent of schools as chairman and exercises general oversight of rural, village, elementary, and high schools.

The auditor (4) acts as bookkeeper and finance officer of the county.

The clerk of circuit court (4) keeps all records of the courts, issues marriage, hunting, and fishing licenses, tabulates and preserves election returns, and is custodian of assembly session laws.

The recorder (4) records all deeds, land transfers, mortgages, and farm names.

The sheriff (2) is the "court messenger," carries out all the orders of the courts, and is responsible for the prisoners and the county jail. He is the county police officer and has the same police powers in the county that police have in the city.

The assessor (4) is president of the board of review, which equalizes assessments and hears tax complaints. The assessor supervises the work of valuing property for taxation purposes and instructs and passes on to township assessors the instructions of the state board of tax commissioners.

The treasurer (2) collects all taxes due the state and other departments of government and pays out

and distributes to the departments of government this money on warrants issued by the auditor.

The coroner (2) is called when a person is found dead under suspicious circumstances, and if violence is evident, other officers are called to fix the blame. The coroner can arrest the sheriff and is empowered with his duties in an emergency.

The surveyor (2) is civil engineer of the county.

The county school superintendent (4) is appointed by the township trustees, visits and controls the schools, and has under his direction county attendance officers appointed by the county board.

The county attorney, physician, health commissioner, and inspector of weights and measures, whose titles designate the nature of their duties, are appointed by the county commissioners for a term of one year.

Township Officers.

SECTION III. Such other county and township officers as may be necessary, shall be elected, or appointed, in such manner as may be prescribed by law.

With the increasing population and demands on local government from time to time, it is necessary for the general assembly to create other county and township officers and commissions. There are 1,016 townships in the ninety-two counties of the state. Township officers control the government of the township, having practically the same duties in a lesser capacity than the county officers.

Qualifications of County Officers.

SECTION IV. No person shall be elected, or appointed, as a county officer, who shall not be an elector of the county; nor any one who shall not have been an inhabitant thereof, during

one year next preceding his appointment, if the county shall have been so long organized; but if the county shall not have been so long organized, then within the limits of the county or counties out of which the same shall have been taken.

County officers must have the qualifications of a legal voter, and have resided in the district one year preceding their election or appointment. See Section II.

State Officers' Residence.

SECTION V. The governor, and the secretary, auditor, and treasurer of state shall, severally, reside and keep the public records, books, and papers, in any manner relating to the respective offices, at the seat of government.

The above-mentioned officers must reside at Indianapolis while performing the duties of their offices.

Other Officers' Residence.

SECTION VI. All county, township, and town officers, shall reside within their respective counties, townships, and towns; and shall keep their respective offices at such places therein, and perform such duties, as may be directed by law.

In England an officer may live outside the district, but we justify the requirement of this section on the grounds that a resident of the district is in closer touch with, and appreciates more, the problems confronting the people he represents.

Impeachment of State and Local Officers.

SECTION VII. All state officers shall, for crime, incapacity, or negligence, be liable to be removed from office, either by impeachment by the house of representatives, to be tried by the senate, or by a joint resolution of the general assembly; two-thirds of the members elected to each branch voting, in either case, therefor.

SECTION VIII. All state, county, township, and town officers, may be impeached, or removed from office, in such manner as may be prescribed by law.

The above sections permit the people through their representatives to remove those incapable of representing them.

The house of representatives makes the charges, and the senate acts as a jury in one case but the general assembly acts in the case of a joint resolution.

If conditions warrant, an officer can be removed from office by a two-thirds vote.

Local Vacancies.

SECTION IX. Vacancies in county, township, and town offices shall be filled in such manner as may be prescribed by law.

Counties have no powers or duties except such as are delegated and conferred by the legislature. The nature of the office, the length of term, and whether the officer is elected or appointed has much to do with the way the vacancy is filled.

County Boards.

SECTION X. The general assembly may confer upon the boards doing county business in the several counties, powers of a local, administrative character.

Acts permitting county boards to create new counties, to order improvement of highways, and to establish homes for the needy have been held in accord with this section.

Such boards as the board of county commissions and the county council whose duties are outlined elsewhere have been authorized under this section.

ARTICLE VII

JUDICIAL

Judicial Powers.

SECTION I. The judicial power of the state shall be vested in a supreme court, circuit courts, and in such other courts as the general assembly may establish.

The judicial system consists of a supreme court, an appellate court of six judges, seventy-three circuit courts, thirteen superior courts, two criminal courts, two special probate courts, and one juvenile court; justices of peace; grand and petit juries; prosecuting attorneys; jury commissioners; probation officers; and other coöperating officers.

Supreme Court.

SECTION II. The Supreme Court shall consist of not less than three, nor more than five judges; a majority of whom shall form a quorum. They shall hold their offices for six years, if they so long behave well.

Judicial Districts.

SECTION III. The state shall be divided into as many districts as there are judges of the Supreme Court; and such districts shall be formed of contiguous territory, as nearly equal in population, as, without dividing a county, the same can be made. One of said judges shall be elected from each district, and reside therein; but said judges shall be elected by the electors of the state at large.

The Supreme Court, the highest court in Indiana, consists of five judges elected for six years beginning on the first Monday of January after election. The state is divided into five districts of contiguous territory and of equal population as near as county lines will permit. One judge is nominated in each district but is elected by the voters of the entire state.

Jurisdiction.

SECTION IV. The Supreme Court shall have jurisdiction, coextensive with the limits of the state, in appeals and writs of error, under such regulations and restrictions as may be prescribed by law. It shall also have such original jurisdiction as the general assembly may confer.

Decisions in Writing

SECTION V. The Supreme Court shall, upon the decision of every case, give a statement in writing of each question arising in the record of such case, and the decisions of the court thereon.

SECTION VI. The general assembly shall provide, by law, for the speedy publication of the decisions of the Supreme Court, made under this constitution; but no judge shall be allowed to report such decision. **Indiana Reports.**

The Supreme Court holds two sessions, annually, beginning in May and November. At the beginning of each session, the judges select one of their number as chief justice until all have served in turn. This court has jurisdiction, or the right to exercise its authority throughout the state in appeals from lower courts. It has original jurisdiction [1] in cases involving constitutionality of law and in other special cases. A written decision is required in each case. All the cases for the term are edited and published by the reporter of the court in one volume and added to the series known as "Indiana Reports."

Owing to the increase in business the legislature has created an appellate court to relieve the Supreme Court, consisting of six members, three to be elected from each of the two state districts. The organization of this court is practically the same as the Supreme Court.

SECTION VII. There shall be elected by the voters of the state, a clerk of the Supreme Court, who shall hold his office four years, and whose duties shall be prescribed by law. **Clerk of Supreme Court.**

All briefs, records, and other official documents are kept by the clerk.

[1] Jurisdiction of a court is: (1) *Original,* if the case must begin there; (2) *appellate,* if the case has been tried in a lower court and has come up on appeal; (3) *concurrent,* when there are two or more courts having the same power; (4) *final,* when there is no chance of appeal to a higher court.

Circuit Courts.

SECTION VIII. The circuit courts shall each consist of one judge and shall have such civil and criminal jurisdiction as may be prescribed by law.

Circuit Judges.

SECTION IX. The state shall, from time to time, be divided into judicial circuits; and a judge for each circuit shall be elected by the voters thereof. He shall reside within the circuit, and shall hold his office for the term of six years, if he so long behave well.

Special Judges.

SECTION X. The general assembly may provide, by law, that the judge of one circuit may hold the courts of another circuit, in cases of necessity or convenience; and in case of temporary inability of any judge, from sickness or other cause, to hold the courts in his circuit, provision may be made, by law, for holding such courts.

Circuit judges are nominated at the primaries. Each county is entitled to one judge elected at the general election by the voters of the circuit for a term of six years. A circuit consists of one or more counties, depending on the population and needs of the district. Circuit courts have original exclusive jurisdiction in all cases of law and equity including criminal cases, actions for divorce, settlement of estates, and guardianships. They also hear cases appealed from justices of peace and city courts. The legislature has power to provide special judges where it is deemed necessary. In large cities where the circuit courts are not sufficient the legislature has created superior courts. These courts have concurrent jurisdiction with the circuit courts.

Prosecuting Attorneys.

SECTION XI. There shall be elected, in each judicial circuit, by the voters thereof, a prosecuting attorney, who shall hold his office for two years.

A prosecuting attorney is intrusted with representing the state in prosecuting all criminals and other violations of the state laws.

SECTION XII. Any judge, or prosecuting attorney, who shall have been convicted of corruption or other high crime, may, on information in the name of the state, be removed from office by the Supreme Court, or in such other manner as may be prescribed by law. **Removal of Judges.**

The public demands that officers empowered to interpret the laws and prosecute those who violate them shall be removed from office if they violate their oath of office.

SECTION XIII. The judges of the Supreme Court and circuit courts shall, at stated times, receive a compensation, which shall not be diminished during their continuance in office. **Pay of Judges.**

The salary of a judge of the Supreme Court is $6,000 and of the circuit court, $4,200.

SECTION XIV. A competent number of justices of the peace shall be elected, by the voters in each township in the several counties. They shall continue in office four years, and their powers and duties shall be prescribed by law. **Justices of the Peace.**

Justices of the peace are township officers elected for four years. The number for each township is fixed by the county commissioners. The jurisdiction of this court is limited to petty civil and criminal cases where the damage or amount involved does not exceed one hundred dollars. The constable enforces the orders of this court. Jury trials may be held, the jury being limited to six members.

SECTION XV. All judicial officers shall be conservators of the peace in their respective jurisdictions. **Judges also Officers.**

SECTION XVI. No person elected to any judicial office, shall, during the term for which he shall have been elected, be eligible to any office of trust or profit, under the state, other than a judicial office. **When Ineligible.**

Judges may arrest disturbers of the peace without warrants and for crimes committed in their presence, but can detain such violators only for a reasonable time necessary to secure a warrant. A judge, like other constitutional officers, occupies but one state position.

Grand Jury.

SECTION XVII. The general assembly may modify, or abolish, the grand jury system.

A grand jury is composed of citizens of the county, who investigate reported violations of the criminal laws. The proceedings are secret, just one side of the case is heard, and if there is sufficient evidence to justify the expense of a public trial, an indictment is returned.

Criminal Prosecutions.

SECTION XVIII. All criminal prosecutions shall be carried on, in the name, and by the authority of the state, and the style of all processes shall be: "The State of Indiana."

This section requires prosecution in the name of the state as the offended party. In this way the public unites in the prosecution of persons committing crimes against society.

Courts of Conciliation.

SECTION XIX. Tribunals of conciliation may be established, with such powers and duties as shall be prescribed by law; or the powers and duties of the same may be conferred upon other courts of justice; but such tribunals or other courts, when sitting as such, shall have no power to render judgment to be obligatory on the parties, unless they voluntarily submit their matters of difference, and agree to abide the judgment of such tribunal or court.

Revisions of Laws.

SECTION XX. The general assembly, at its first session after the adoption of this constitution, shall provide for the appoint-

ment of three commissioners, whose duty it shall be to revise, simplify, and abridge, the rules, practice, pleadings, and forms, of the courts of justice. And they shall provide for abolishing the distinct forms of action at law, now in use; and that justice shall be administered in a uniform mode of pleading, without distinction between law and equity. And the general assembly may, also, make it the duty of said commissioners to reduce into a systematic code, the general statute law of the state; and said commissioners shall report the result of their labors to the general assembly, with such recommendations and suggestions, as to the abridgment and amendment, as to said commissioners may seem necessary or proper. Provision shall be made, by law, for filling vacancies, regulating the tenure of office, and the compensation of said commissioners.

Section XIX permits a board of arbitration to be established but with no power to enforce decisions. Section XX provides for the standardization and uniformity in court procedure.

Lawyers' Qualifications.

Section XXI. Every person of good moral character, being a voter, shall be entitled to admission to practice law in all courts of justice.

Efforts have been made to provide more exacting requirements than being merely a voter in order to be admitted to the bar. Many of the states are far more exacting in their requirements.

ARTICLE VIII

EDUCATION

Common Schools.

Section I. Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government; it shall be the duty of the general assembly to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide, by law, for a

general and uniform system of common schools, wherein tuition shall be without charge, and equally open to all.

Indiana, in the constitution of 1816, was the first to throw safeguards around school funds, and made its beginning then as a state doing noteworthy things in education. It laid the mandate on the legislature, "as soon as circumstances will permit, to provide by law for a general system of education ascending in regular graduation from township schools to a state university, wherein tuition shall be gratis and equally open to all." Under the above provision no great amount of progress was made other than creating influences that made this section the basis of education. Since then progress has been rapid. To-day the schools of Indiana rank with the best, and many notable men and women known throughout the world owe their preparation to its schools.

Common School Fund.

SECTION II. The common school fund shall consist of: the congressional township fund, and the lands belonging thereto;

The surplus revenue fund;

The saline fund, and the lands belonging thereto;

The bank tax fund, and the fund arising from the one hundred and fourteenth section of the charter of the state bank of Indiana;

The fund to be derived from the sale of county seminaries, and the moneys and property heretofore held for such seminaries; from the fines assessed for breaches of the penal laws of the state; and from all forfeitures which may accrue;

All lands and other estate which shall escheat to the state, for want of heirs or kindred entitled to the inheritance;

All lands that have been, or may hereafter be, granted to the state, where no special purpose is expressed in the grant, and the proceeds of the sales thereof; including the proceeds of the sales of the swamp lands, granted to the state of Indiana by the act

of Congress of the 28th of September, 1850, after deducting the expense of selecting and draining the same;

Taxes on the property of corporations, that may be assessed by the general assembly for common school purposes.

SECTION III. The principal of the common school fund shall remain a perpetual fund, which may be increased, but shall never be diminished; and the income thereof shall be inviolably appropriated to the support of common schools, and to no other purpose whatever.

Principal Not Used.

The Ordinance of 1787 set aside a thirty-sixth part of all lands for the maintenance of public schools. In 1825 this consisted of 650,317 acres of land in Indiana, which was unfortunately sold, when the state was poor, for less than two and one-half million dollars. From swamp lands, saline lands, bank taxes, fines, surplus revenue funds, forfeitures, unclaimed estates, this fund has been added to until now it is about ten millions.

Section II specifies the sources that make up the common school fund, the interest only being used, as provided in Section III, to support schools.

SECTION IV. The general assembly shall invest, in some safe and profitable manner, all such portions of the common school fund as have not heretofore been intrusted to the several counties; and shall make provisions, by law, for the distribution, among the several counties, of the interest thereof.

Investment Distribution.

If the land set aside for schools by the Ordinance of 1787 had been safeguarded after 1820 as well as the funds are safeguarded in this section, schools could be supported to-day at a much lower rate of taxation. Income on the present fund is divided among the counties, cities, and districts, according to the number of children in the schools.

When Reinvested.

SECTION V. If any county shall fail to demand its proportion of such interest, for common school purposes, the same shall be reinvested, for the benefit of such county.

This section definitely provides that a fund once set aside for a county cannot be used elsewhere.

Counties' Liability.

SECTION VI. The several counties shall be held liable for the preservation of so much of the said fund as may be intrusted to them, and for the payment of the annual interest thereon.

Counties are intrusted with certain funds or lands, being held accountable for the fund and the income.

Trust Funds.

SECTION VII. All trust funds, held by the state, shall remain inviolate, and be faithfully and exclusively applied to the purposes for which the trust was created.

Early experiences made the makers of this constitution doubly careful in safeguarding trust funds and fulfilling the obligations attached thereto.

Superintendent of Public Instruction.

SECTION VIII. The general assembly shall provide for the election, by the voters of the state, of a state superintendent of public instruction; who shall hold his office for two years, and whose duties and compensation shall be prescribed by law.

The state superintendent of public instruction is official head of the school system of the state. He is elected by popular vote for a period of two years. He is president of the state board of education which consists of thirteen members, seven of whom are prominent school men of the state by right of the positions they hold. Of the remaining members appointed by the governor, two must have been engaged in common school work and one, a county superintendent. Three others must be interested in education, of which one represents the employees;

another, the employers. This board examines and licenses teachers, adopts textbooks, establishes courses of study, and has general control of the schools.

ARTICLE IX

STATE INSTITUTIONS

SECTION I. It shall be the duty of the general assembly to provide, by law, for the support of Institutions for the education of the deaf and dumb, and of the blind; and also for the treatment of the insane. **Benevolent Institutions.**

Institutions for the deaf and blind are located at Indianapolis, and hospitals for treatment of the insane are located at Indianapolis, Logansport, Richmond, Evansville, and North Madison.

SECTION II. The general assembly shall provide houses of refuge, for the correction and reformation of juvenile offenders. **Houses of Refuge.**

A boys' school for the correction of youth is located at Plainfield and one for girls at Clermont. Besides this the state maintains a number of other institutions, both charitable and correctional.

SECTION III. The county boards shall have power to provide farms, as an asylum, for those persons, who, by reason of age, infirmity, or other misfortune, have claims upon the sympathies and aid of society. **County Homes.**

Each county maintains a home to care for those who, because of misfortune, declining years, and infirmity, do not have the means and ability to support themselves.

ARTICLE X

FINANCE

Assessment and Taxation.

SECTION I. The general assembly shall provide, by law, for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious or charitable purposes, as may be specially exempted by law.

Property is now assessed on the basis of its true cash value, meaning one hundred per cent valuation. The rate per $100 assessed valuation must be uniform in the taxing unit in which it is levied.

Assessing property means putting a value on it for purposes of taxation by the township officer who comes to your home. County and state agencies value properties of corporations, railroads, and others whose properties are extensive.

The tax levy is an official statement of the amount necessary to be raised by taxation, and the rate is computed by finding how much must be paid on each $100 assessed valuation of real and personal property necessary to realize the levy. Taxes are paid to the county treasurer.

Payment of Public Debt.

SECTION II. All the revenues derived from the sale of any of the public works belonging to the state, and from the net annual income thereof, and any surplus that may, at any time, remain in the treasury, derived from taxation for general state purposes, after the payment of the ordinary expenses of the government, and of the interest on bonds of the state, other than bank bonds, shall be annually applied, under the direction of the general assembly, to the payment of the principal of the public debt.

Surplus funds are to be applied on the public debt by action of the assembly.

SECTION III. No money shall be drawn from the treasury, but in pursuance of appropriations made by law. **Appropriations.**

The treasurer can pay money from state funds only when a properly authorized warrant is presented.

SECTION IV. An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the general assembly. **Financial Statement.**

Such statements are embodied in the year book of the state of Indiana. Each department of government maintained wholly or partly by state funds is required to submit a report of income and expenditures to the governor, which are standardized for publication by the legislative reference bureau.

SECTION V. No law shall authorize any debt to be contracted, on behalf of the state, except in the following cases: To meet casual deficits in the revenue; to pay the interest on the state debt; to repel invasion, suppress insurrection, or, if hostilities be threatened, provide for public defense. **Debt Forbidden.**

The credit of a state must be protected so that it can be used to provide for unforeseen emergencies.

SECTION VI. No county shall subscribe for stock in any incorporated company, unless the same be paid for at the time of such subscription; nor shall any county loan its credit to any incorporated company, nor borrow money for the purpose of taking stock in any such company; nor shall the general assembly ever, on behalf of the state, assume the debts of any county, city, town or township, nor of any corporation whatever. **Subscriptions Prohibited.**

The makers of the constitution realized that a state's credit determines its existence, and were careful to protect it from private interests.

Wabash and Erie Canal.

SECTION VII. No law or resolution shall ever be passed by the general assembly of the state of Indiana, that shall recognize any liability of this state to pay or redeem any certificate of stock issued in pursuance of an act entitled "An act to provide for the funded debt of the state of Indiana, and for the completion of the Wabash and Erie Canal to Evansville," passed January 19, 1846, and an act supplemental to said act, passed January 29, 1847, which, by the provisions of the said acts, or either of them, shall be payable exclusively from the proceeds of the canal lands, and the tolls and revenues of the canal in said acts mentioned, and no such certificate of stocks shall ever be paid by this state.

This section was not part of the original constitution but was added in 1873 to remove all doubt that the state would assume any financial responsibility for stocks issued to complete the canal.

ARTICLE XI

CORPORATIONS

Incorporation of Banks.

SECTION I. The general assembly shall not have power to establish, or incorporate any bank, or banking company, or moneyed institution, for the purpose of issuing bills of credit, or bills payable to order or bearer, except under the conditions prescribed in this constitution.

General Banking Law.

SECTION II. No bank shall be established otherwise than under a general banking law, except as provided in the fourth section of this article.

Registry of Notes.

SECTION III. If the general assembly shall enact a general banking law, such law shall provide for the registry and countersigning, by an officer of state, of all paper credit designed to be circulated as money; and ample collateral security, readily convertible into specie, for the redemption of the same in gold

or silver, shall be required; which collateral security shall be under the control of the proper officer or officers of state.

Bank Branches.

SECTION IV. The general assembly may also charter a bank with branches, without collateral security, as required in the preceding section.

Branches Mutually Responsible.

SECTION V. If the general assembly shall establish a bank with branches, the branches shall be mutually responsible for each other's liabilities, upon all paper credit issued as money.

All institutions intrusted with the money and savings of citizens must be properly authorized by the secretary of state and supervised by the auditor. Surety companies and private banks qualify with the auditor.

Reports from the banks are required, and bank examiners visit banks and investigate conditions at least twice a year. A specified capital is required and certain other restrictions are placed on the organizers of the different types of banks. Bank funds must be invested in approved securities.

Liabilities of Stockholders.

SECTION VI. The stockholders in every bank, or banking company shall be individually responsible, to an amount, over and above their stock, equal to their respective shares of stock, for all debts or liabilities of said bank or banking company.

A stockholder is not only responsible for the stock he holds in a bank but for even a greater amount to secure depositors against loss.

Redemption.

SECTION VII. All bills or notes issued as money shall be, at all times, redeemable in gold or silver; and no law shall be passed, sanctioning, directly or indirectly, the suspension, by any bank or banking company, of specie payments.

The fact that bills, notes, and checks for money can be redeemed at any time gives them unquestioned security in the minds of the people.

Preference. SECTION VIII. Holders of bank notes shall be entitled, in case of insolvency, to preference of payment over all other creditors.

When the doors of a bank in a failing condition are closed by the auditor, an application is made to the proper court for a receiver. The receiver is required to pay the holders of bank notes before any other obligations are paid.

Interest. SECTION IX. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law, to individuals loaning money.

Violation of this section is called "usury."

Twenty Years' Limitations. SECTION X. Every bank or banking company, shall be required to cease all banking operations, within twenty years from the time of its organization, and promptly thereafter to close its business.

Banks can be re-incorporated.

Trust Funds. SECTION XI. The general assembly is not prohibited from investing the trust funds in a bank with branches; but in case of such investment, the safety of the same shall be guaranteed by unquestionable security.

State Not a Stockholder. SECTION XII. The state shall not be a stockholder in any bank, after the expiration of the present bank charter; nor shall the credit of the state ever be given, or loaned, in aid of any person, association or corporation; nor shall the state hereafter become a stockholder in any corporation or association.

Both sections better safeguard the interests of the public. One protects its funds, the other its credit.

General Laws. SECTION XIII. Corporations, other than banking, shall not be created by special act, but may be formed under general laws.

This section applies to municipal corporations or those created for public rather than private purposes.

SECTION XIV. Dues from corporations, other than banking, shall be secured by such individual liability of the corporators, or other means, as may be prescribed by law. **Individual Liability.**

The legislature has the power to determine the liability of incorporators.

ARTICLE XII

MILITIA

SECTION I. The militia shall consist of all able-bodied white male persons, between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States, or of this state; and shall be organized, officered, armed, equipped, and trained, in such manner as may be provided by law. **Organization.**

This paragraph provides for a militia to keep peace within the state and protect the lives and property of its citizens.

SECTION II. The governor shall appoint the adjutant, quartermaster, and commissary generals. **Governor's Aids.**

SECTION III. All militia officers shall be commissioned by the governor, and shall hold their offices not longer than six years. **Commissions.**

SECTION IV. The general assembly shall determine the method of dividing the militia into divisions, brigades, regiments, battalions, and companies, and fix the rank of all staff officers. **Division of Militia.**

SECTION V. The militia may be divided into classes of sedentary and active militia, in such manner as shall be prescribed by law. **Classes of Militia.**

SECTION VI. No person, conscientiously opposed to bearing arms, shall be compelled to do militia duty; but such person shall pay an equivalent for exemption; the amount to be prescribed by law. **Exemption.**

The above paragraphs outline the organization of the state military forces. The general assembly has authority to change the organization from time to time to make it consistent with the plans of the federal government.

ARTICLE XIII

POLITICAL AND MUNICIPAL CORPORATIONS

Municipal Debt.

SECTION I. No political or municipal corporation in this state shall ever become indebted in any manner or for any purpose to an amount in the aggregate exceeding two per centum on the value of taxable property within such corporation, to be ascertained by the last assessment for state and county taxes, previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by such corporations shall be void: *Provided*, That in time of war, foreign invasion, or other great public calamity, on petition of a majority of the property owners, in number and value, within the limits of such corporation. The public authorities, in their discretion, may incur obligations necessary for the public protection and defense to such an amount as may be requested in such petition.

The limitation of this article on the indebtedness of cities keeps the expenditures within due bounds. This article places a limitation on the bonds that can be issued for building schools, but the debt of a school city is not considered a part of the corresponding civil city. Indebtedness for improving streets and building roads does not come within this article.

ARTICLE XIV

BOUNDARIES

State Boundaries.

SECTION I. In order that the boundaries of the state may be known and established, it is hereby ordained and declared, that the state of Indiana is bounded, on the east, by the meridian line which forms the western boundary of the state of Ohio; on the south, by the Ohio River, from the mouth of the Great Miami River to the mouth of the Wabash River; on the west, by a line drawn along the middle of the Wabash River, from its mouth to a point where a due north line, drawn from the town of

Vincennes, would last touch the northwestern shore of said Wabash River; and, thence by a due north line, until the same shall intersect an east and west line, drawn through a point ten miles north of the southern extreme of Lake Michigan; on the north, by said east and west line, until the same shall intersect the first mentioned meridian line, which forms the western boundary of the state of Ohio.

Jurisdictions.

SECTION II. The state of Indiana shall possess jurisdiction, and sovereignty co-extensive with the boundaries declared in the preceding section; and shall have concurrent jurisdiction, in civil and criminal cases, with the state of Kentucky on the Ohio River, and with the state of Illinois on the Wabash River, so far as said rivers form the common boundary between this state and said states respectively.

Congress divided the Northwest Territory and determined the boundaries of Indiana as given in the first section. This article is placed in this constitution to avoid any misunderstanding. Low-water mark on the north side of the Ohio River is the southern boundary of the state. In Section II authority is given the state to enforce its laws within its boundaries and to coöperate with Kentucky on the Ohio River and Illinois on the Wabash, so that the river boundaries will be properly controlled to the interests of both states.

ARTICLE XV

MISCELLANEOUS

Official Appointments.

SECTION I. All officers, whose appointment is not otherwise provided for in this constitution, shall be chosen in such manner as now is, or hereafter may be, prescribed by law.

Duration of Office.

SECTION II. When the duration of any office is not provided for by this constitution, it may be declared by law; and, if not so declared, such office shall be held during the pleasure of the

authority making the appointment. But the general assembly shall not create any office, the tenure of which shall be longer than four years.

Holding Over.

SECTION III. Whenever it is provided in this constitution, or in any law which may be hereafter passed, that any officer, other than a member of the general assembly, shall hold his office for any given term, the same shall be construed to mean that such officer shall hold his office for such term, and until his successor shall have been elected and qualified.

The legislature cannot appoint local officers, but this section does not prevent the legislature from authorizing the governor or boards to appoint certain officers whose selection is not provided for in the constitution. Section II does not apply to an office created without the length of term fixed. If the length of the term is fixed for an office created by the assembly, it cannot exceed four years.

Section III entitles an officer to hold over until his successor is elected and qualified.

Oath of Office.

SECTION IV. Every person elected or appointed to any office under this constitution shall, before entering on the duties thereof, take an oath of affirmation, to support the constitution of this state, and of the United States, and also an oath of office.

You have learned elsewhere why the word "affirmation" is used. The "Constitution of the United States" is inserted to remind a public officer of Indiana's relation to the nation, and to keep him ever mindful of his obligation to the nation as well as the state.

Seal.

SECTION V. There shall be a Seal of the state, kept by the governor for official purposes, which shall be called the Seal of the State of Indiana.

SECTION VI. All commissions shall issue in the name of the state, shall be signed by the governor, sealed by the State Seal, and attested by the secretary of state. **Commissions.**

The above paragraph lists the documents that must have an imprint of the State Seal by its proper officer, the secretary of state. All such documents must be signed by the governor, the chief executive officer of the state, and the secretary of state, the custodian of the Great Seal.

SECTION VII. No county shall be reduced to an area less than four hundred square miles; nor shall any county, under that area, be further reduced. **Area of County.**

The size of a county must be kept within the limits required by this section. The boundaries of a county may be changed or a new county created or territory transferred from one county to another if the proposition is approved by a majority of the voters affected in each case.

SECTION VIII. No lottery shall be authorized, nor shall the sale of lottery tickets be allowed. **Lotteries.**

This form of gambling was at one time very extensive. The evils of gambling are well known. This paragraph protects those citizens who do not have the foresight or the desire to safeguard their own interests. The best citizen does not "take chances"; he requires something of value for his money. This section is in the interests of good citizenship.

SECTION IX. The following grounds owned by the state in Indianapolis, namely: the State House Square, the Governor's Circle, and so much of outlot numbered one hundred forty-seven, as lies north of the arm of the Central Canal, shall not be sold or leased. **Public Grounds.**

Outlot numbered one hundred forty-seven is now Camp Sullivan, known as Military Park, and is located in the city of Indianapolis.

The makers of this constitution, realizing the early mistakes made in disposing of public property, made certain that future generations would profit by this experience.

Tippecanoe.

SECTION X. It shall be the duty of the general assembly, to provide for the permanent enclosure and preservation of the Tippecanoe Battle Ground.

The Tippecanoe Battle Ground is located in Tippecanoe County and is preserved by the state for historical purposes.

ARTICLE XVI

AMENDMENTS

How Made.

SECTION I. Any amendment or amendments to this constitution, may be proposed in either branch of the general assembly; and, if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and referred to the general assembly to be chosen at the next general election; and if, in the general assembly so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such amendment or amendments to the electors of the state, and if a majority of said electors shall ratify the same, such amendment or amendments shall become a part of this constitution.

A proposed amendment to this constitution must be approved in exactly the same form by a major-

ity vote of the members of two successive general assemblies and then be approved or ratified by a majority of the people casting votes at the polls, before it becomes a part of this constitution. An additional amendment cannot be proposed while this amendment is awaiting action by a succeeding general assembly, or by the voters.

Separate Vote.

SECTION II. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner, that the electors shall vote for or against each of such amendments separately; and while such an amendment or amendments, which shall have been agreed upon by one general assembly, shall be awaiting the action of the succeeding general assembly, or of the electors, no additional amendment or amendments shall be proposed.

If more than one amendment is submitted to the voters at the same election, the legislature must provide ways and means for the voters to approve or disapprove each separately and distinctly. Of the three hundred seventy-seven amendments which have been proposed, only nine have been ratified.

SCHEDULE

Schedule for the Change from Government under the Constitution of 1816 to this Constitution.

This constitution, if adopted, shall take effect on the first day of November, in the year one thousand eight hundred and fifty-one, and shall supersede the constitution adopted in the year one thousand eight hundred and sixteen. That no inconvenience may arise from the change in the government, it is hereby ordained as follows:

First. All laws now in force, and not inconsistent with this constitution, shall remain in force, until they expire or be repealed.

Second. All indictments, prosecutions, suits, pleas, plaints, and other proceedings, pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of

error, certiorari, and injunctions, shall be carried on in the several courts, in the same manner as is now provided by law.

Third. All fines, penalties, and forfeitures, due or accruing to the state, or to any county therein, shall inure to the state, or to such county, in the manner prescribed by law. All bonds executed to the state, or to any officer, in his official capacity, shall remain in force and inure to the use of those concerned.

Fourth. All acts of incorporation for municipal purposes shall continue in force under this constitution, until such time as the general assembly shall, in its discretion, modify or repeal the same.

Fifth. The governor, at the expiration of the present official term, shall continue to act, until his successor shall have been sworn into office.

Sixth. There shall be a session of the general assembly, commencing on the first Monday in December, in the year one thousand eight hundred and fifty-one.

Seventh. Senators now in office and holding over, under the existing constitution, and such as may be elected at the next general election, and the representatives then elected, shall continue in office until the first general election under this constitution.

Eighth. The first general election under this constitution shall be held in the year one thousand eight hundred and fifty-two.

Ninth. The first election for governor, lieutenant-governor, judges of the supreme court and circuit courts, clerk of the supreme court, prosecuting attorneys, secretary, auditor and treasurer of state, and state superintendent of public instruction, under this constitution, shall be held at the general election in the year one thousand eight hundred and fifty-two; and such of said officers as may be in office when this constitution shall go into effect, shall continue in their respective offices, until their successors shall have been elected and qualified.

Tenth. Every person elected by popular vote, and now in any office which is continued by this constitution, and every person who shall be so elected to any such office before the taking effect of this constitution (except as in this constitution otherwise provided), shall continue in office, until the term for

which such person has been, or may be, elected, shall expire: *Provided,* That no such person shall continue in office, after the taking effect of this constitution, for a longer period than the term of such office in this constitution prescribed.

Eleventh. On the taking effect of this constitution, all officers thereby continued in office, shall, before proceeding in the further discharge of their duties, take an oath or affirmation to support this constitution.

Twelfth. All vacancies that may occur in existing offices, prior to the first general election under this constitution, shall be filled in the manner now prescribed by law.

Thirteenth. At the time of submitting this constitution to the electors, for their approval or disapproval, the article numbered thirteen, in relation to Negroes and Mulattoes, shall be submitted as a distinct proposition, in the following form: "Exclusion and Colonization of Negroes and Mulattoes," "Aye" or "No." And if a majority of the votes cast shall be in favor of said article, then the same shall form a part of this constitution; otherwise, it shall be void, and form no part thereof.

Fourteenth. No article or section of this constitution shall be submitted as a distinct proposition, to a vote of the electors, otherwise than as herein provided.

Fifteenth. Whenever a portion of the citizens of the counties of Perry and Spencer, shall deem it expedient to form, of the contiguous territory of said counties, a new county, it shall be the duty of those interested in the organization of such new county, to lay off the same, by proper metes and bounds, of equal portions, as nearly as practicable, not to exceed one-third of the territory of each of said counties. The proposal to create such new county shall be submitted to the voters of said counties, at a general election, in such manner as shall be prescribed by law. And if a majority of all the votes given at said election, shall be in favor of the organization of said new county, it shall be the duty of the general assembly to organize the same, out of the territory thus designated.

Sixteenth. The general assembly may alter or amend the charter of Clarksville, and make such regulations as may be necessary for carrying into effect the objects contemplated in

granting the same; and the funds belonging to said town shall be applied, according to the intention of the grantor.

This entire article is a precautionary measure in order to avoid confusion in changing from the first constitution to this constitution.

Care is taken to provide for every emergency, so that the change in the plan of government will not impair the rights of any citizen of the state.

Done in Convention, at Indianapolis, the tenth day of February, in the year of our Lord one thousand eight hundred and fifty-one; and of the Independence of the United States, the seventy-fifth.

CHAPTER V

HOW INDIANA SERVES ITS PEOPLE

The Course of Social Progress.

About the time of the adoption of this constitution there was a transition in the industrial affairs of the state destined to have its effects on social progress. Most of the needs of the people had been supplied on the farms. With the railroads came a growth in manufacturing that soon placed Indiana high in the industrial rank with other states. Labor-saving devices changed conditions on the farms and fewer people were needed to operate them. Now people were flocking to the cities and manufacturing centers. Greater intellectual and social advantages, better wages, shorter hours, and better homes changed the desires of the people. Then came modern invention with even greater effect on the ever-increasing standards of living both in the cities and on the farms. With increased standards of living the people sanctioned and required greater service from their government. While some citizens apparently have the impression that this greater service by the government is free, the people pay no less for it than the individual citizen pays for his better ways of living. Government money is the people's money, and all must realize that the question of increased government expenditures is a question of higher taxes.

The main source of Indiana revenue is the general property tax levied on *real property* (lands and buildings) and on *personal property* (movable property, such as furniture, bonds, etc). A poll tax or head tax is also levied on each male citizen between the ages of twenty-one and fifty years of age. The inheritance tax, insurance taxes, certain fees and licenses from corporations, banks and trust companies, fish and game, together with interest on funds on deposit and reserve funds, constitute the greater part of the balance of the income of the state.

Automobile fees and the gasoline tax go to the road fund to build highways and bridges. From the general income must be supported not only the operation of government formerly sufficient but also the larger social service required by the people with their new ideas of progressive democratic government.

Collection and Expenditure of Funds.

As citizens it is our duty to know first how this money is levied, collected, and expended. The state prepares a list of its anticipated expenditures known as a budget, setting aside a certain amount for each department. This includes such items as salaries of officials, office expense, social service departments, and in fact all the appropriations made by the legislature.

First the fixed income, such as interest, fees, etc., is deducted from the estimated expenditures. The assessed valuation of the state is then used as a basis to determine the rate. This is called "computing

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the rate." This rate is then multiplied by the assessed value of each person's property, and entered in the tax collector's book, to show the amount of the taxes each property owner is to pay.

The taxes are later paid to the county treasurer within a specified time. If they are not paid as required, the taxes are "delinquent" and a penalty assessed. The county treasurer on warrants issued by the county auditor sends the portion collected for the state to the state treasurer, who in turn pays it out on warrants issued by the state auditor to meet the obligations of the state.

In a similar manner each unit of government—the county, the township, the city, and the school district—receives its support from taxes paid by the people.

Increased demands of the people have caused another tax to be levied, called "Special Assessment Taxes." Special assessments are taxes levied for some special purposes, such as laying a sewer or water main, which are assessed in addition to the regular taxes on the property benefited by the improvement.

By various plans, then, the government receives its support and attempts to satisfy the needs of its people. No doubt every citizen should be acquainted with the progressive features of government which not only make his home a better place to live, his place of employment a better place to work, but even contributes to his enjoyment during his leisure.

Conservation of Life.

The industrial board through its various departments determines and gathers information on the causes of accidents in the industrial plants and mines; carries on a campaign in accident prevention; inspects factories and mines; offers suggestions and at times compels the employer to use safety devices to guard against injuries to the workers. It investigates the conditions where the worker is injured, hears the case, and awards damages to be paid by the employer. Most employers in turn carry liability insurance to protect themselves against such claims, thus avoiding personal responsibility.

A special effort is made to enforce the law under which women and children work, and improve the moral and sanitary conditions in places of employment.

Since the explosion of a steam boiler endangers lives and can usually be foreseen, inspectors visit the various plants, order defects remedied, and report to owners the conditions found.

The state assumes its share of the responsibility, inspecting safety of theaters, churches, schools, hotels, and public buildings. Fire escapes are ordered or approved and other changes to better safeguard the public. Sometimes buildings are condemned and closed to the public if necessary for public safety. Reports of this board conclusively show that many of the injuries from accidents are unnecessary and that the coöperation of employers, employees, the schools, and the general public would

not only decrease the loss of life but would be of economic benefit to every citizen.

Conservation of Property.

Apart from the service of the industrial board the department of the state fire marshal protects the lives and property of the citizens in a different way. The enormous waste from fires mounting to millions of dollars has made the public realize that fire prevention is the best protection against loss of property. This department inspects garages, picture theaters, dry-cleaning establishments, buildings endangering other property, places for storage of oils and explosives, and enforces the requirements to reduce the hazards to property.

Fire departments are inspected and the equipment standardized. Efforts are made to carry out a program of education to interest the public to do its part in fire prevention.

Property is protected by insurance, and the hazards created by a property owner has its effect in making insurance more expensive on the neighboring property. The greater the fire loss in the state and the more hazards permitted, the greater cost to every citizen for protection against fire. When all citizens respect the rights of others, there will be less destruction of life and property with a material reduction in the cost of protection.

Conservation of Resources.

The prosperity of a state such as Indiana is based on the fertility and productiveness of its soil, the richness of its minerals, and other resources provided by nature for the use of man. Each generation owes an obligation to the generations to come

by preserving for them fully as good natural advantages as they enjoyed. The misuse of the soil without crop rotation or fertilization, the waste of coal and other minerals, the pollution of the streams, the extermination of birds and animals, the destruction of timber, the growing of diseased plants, and lack of coöperation in exterminating harmful insects causes an inestimable waste and is rapidly destroying the rich inheritance provided by nature.

The department of conservation through its various divisions hopes to control this unnecessary waste. It investigates the mineral resources, analyzes clays and soils, locates and investigates mineral deposits, encourages the planting and care of trees, guards against destruction by insects, discourages timber waste, shows the dangers of stream pollution, protects and propagates fish and game, operates state hatcheries, distributes fish to the streams, and develops sections to preserve the rapidly disappearing wild life of the state. The work of this department has unlimited possibilities, and with the rapidly growing population must have support so that it can assume greater responsibilities if future generations are to receive their proper heritage.

Conservation of Health.

The health of the citizens of a state is one of its greatest sources of wealth.

The state board of health through its health officers use the best practices known to medical science to control the spread of contagious diseases. It

analyzes samples of water from the public and private water supply, and reports on the quality of the water supply and sources of pollution.

The adulteration, condition, and misbranding of foods and drugs sold to the public is investigated and the offenders prosecuted.

It does much to instruct mothers in caring for babies; it coöperates with parents and various organizations in promoting the health of children.

Tuberculosis is a menace to the health of citizens and claims many lives. Care is taken to guard against its spread through contact with diseased persons and animals. Indiana has found it economical to establish places for treatment and care of the tubercular patient at public expense.

Citizens should coöperate willingly with a department whose general duty is to protect those who are asked to coöperate.

Promotion of Agriculture.

A state that depends so much on the products of its soil naturally does much to promote the production of foods as well as conserving them. Through the department of agricultural extension the farmer is given information on the methods of preparing and treating soils, selection of seed, harvesting and storing grain, and assistance in fighting injuries to crops.

Encouragement is given to the education of young people for farming. Courses in vocational agriculture, the formation of boys' and girls' clubs, and the establishment of farm bureaus all have in view the improvement of agriculture in the state.

The live-stock board coöperates in controlling and eliminating the diseases of domestic animals, establishing quarantines, and testing cattle for tuberculosis.

The gathering of agricultural statistics and encouragement of crop reporting gives the farmer information on the better marketing of his products. Since much of the prosperity of the state depends on the prosperity of the farmer, much attention should be given to the promotion of his interests.

Building of Highways.

With the coming of the automobile the improvement of highways was demanded by the people, but its economic side is given little thought by the average citizen. It has done away with the isolated farm and enables the farmer to move his products rapidly during the best market and at less expense. It has changed business conditions and made possible the consolidation of schools, thus offering better educational advantages to the children.

The funds for road improvement are obtained from the tax on gasoline, automobile license fees, the state-road tax, and help in building trunk lines form the federal government. Much of this work is known to you in your own community, but the big program which calls for improving all main roads of the entire state is merely a matter of time and money.

Guarding the People's Interests.

The best citizens are usually those who own property, have bank balances, have their savings invested in good securities, and pay their just taxes. A state is then interested in protecting its citi-

zens' financial interests. It safeguards the tax money by having published audits of public accounts, requires bonds by the people handling its money, and provides for the punishment of dishonest public officials.

It guards against bankruptcy of government by limiting the rate of taxation, and limits bonded indebtedness to two per cent of the assessable wealth.

The securities commission protects the investors by refusing to permit the sale of stocks in organizations which are not of creditable standing. Bank examiners go over the accounts of institutions receiving the people's money at intervals to be assured of their safety. Such enterprises as insurance companies, building associations, and pawn shops are investigated to protect the interests of the people.

The public service commission has power over "public utilities" or companies furnishing a product of general usefulness to the people. They investigate and determine that the rates charged for telephone, gas, heat, water, electric light and power, street cars, buses, interurbans, and railways are just and reasonable. Rates higher than the authorized rates cannot be charged. In the case of wrecks or death on railway lines an investigation is carried on and an endeavor made to fix the responsibility.

In various ways, then, the state protects the financial interests of its citizens, encourages thrift and economy, and guards against fraud.

The state safeguards the professional services rendered its people by requiring a final examination

Efficiency in the Professional Service.

as to their fitness before a license is issued. A person eligible to licenses to practice in the state as a doctor, dentist, nurse, optometrist, pharmacist, or embalmer must have followed a certain prescribed course leading to that particular profession, attended a recognized school, passed an examination, and must furnish evidence of a good moral character.

The public is also protected against incompetent engineers, surveys, and architects.

The state board of education licenses teachers who have complied with the law. The various boards have power not only to grant but to revoke licenses when satisfied that the person is incompetent or if it is for the protection of the public.

Legislative Reference Bureau

Perhaps no bureau in the state government renders a greater service, yet so little is known of its actual benefits by the average citizen. Here are collected, catalogued, and indexed laws of many states, periodicals, documents, and digests. Great service is rendered to legislators in drafting bills and aiding intelligent voting on a bill introduced. Information on the most progressive ideas in government can be found here.

The collecting and publishing of information relating to agriculture, financial conditions, government, citizenship, marriage, divorce, and other social and economic questions gives the citizen an opportunity to know what service the government has to offer and for what purpose his money is spent.

The State Library.

The constitution of 1816 provided for a library. Since its organization it has grown continually. It is not such a library as you have in your own community. Here are found books to aid officers in public business, a collection of Indiana historical material, documents, newspapers, manuscripts, maps, pictures—in fact, every type of reference book. This library also circulates books for the blind, sent free of charge through the mails. After complying with the regulations, a citizen may secure service or have books issued from this library by parcel post by merely refunding the postage.

The Public Library Commission.

This commission encourages the establishment of new libraries, extends the work of those previously established, and through traveling libraries reaches those without library facilities.

Social Organizations.

There are always those who, because of misfortune, war, disaster, affliction, mental condition, lack of employment, loss of parents, and loss of health, must receive help from the state. These institutions are under control of the board of state charities. Every effort is made to care for such worthy people, to give them medical attention, to restore physical and mental strength, and to train and assist them if possible to become self-supporting. Besides those in state institutions there are almost one hundred thousand people scattered throughout the state who are helped through county and local agencies.

In a democracy the state acts as a parent and cares for its children having neither parents, rela-

tives, or friends who can relieve the state of this duty.

Hospitals for the insane are located in Richmond, Indianapolis, Logansport, Evansville, and North Madison; the school for feeble-minded youth in Fort Wayne; village for epileptics, New Castle; Soldiers' Homes, Marion and LaFayette; Soldiers' and Sailors' Orphans' Home, Knightstown; State Sanitarium, Rockville; Indiana School for the Blind, School for the Deaf, and the James Whitcomb Riley Hospital for Children, Indianapolis.

Criminals are real enemies of society who unjustly take people's money, property, and even lives. They interfere with the rights of others to such an extent that they must not only pay the penalty exacted by the courts, but at times are placed in institutions to insure safety to law-abiding citizens. The state maintains the State Prison at Michigan City; the Reformatory at Jeffersonville; the State Farm at Putnamville; the Woman's Prison at Indianapolis; the Boys' School at Plainfield; and the Girls' School at Clermont. Counties have their jails and workhouses and cities their police stations. The charitable and criminal institutions of the state cost the taxpayer millions of dollars. Thus the state has institutions of two types—one to protect the unfortunate, the other to punish or correct those who would destroy it.

Educational Opportunity for All.

Each generation possesses a certain fund of information and experience that must be passed on to the next generation if the world is to progress.

Indiana supports its schools for this purpose. Those responsible for the education of children search this fund of information and devise economical ways in the form of courses of study to instruct the children. The state requires parents to send their children to school because educated citizens are better citizens and of more value to the state. The elementary schools enroll over half a million pupils and the high schools over one hundred thousand. The state maintains normal schools at Terre Haute and Muncie to train teachers. Indiana University with schools of law, medicine, commerce, education, music, and other professions is located at Bloomington with technical branches at Indianapolis. Purdue University was established in coöperation with the federal government to teach agriculture and mechanic arts without neglecting the cultural side. It is under state control, and offers courses in agriculture, engineering, pharmacy, and science. Short courses are offered in agriculture, home economics, and club leadership; there are also courses to train pupils to teach vocational agriculture, home economics, and industrial arts. Its departments do much research in coöperation with the work of the state boards.

The story of higher education in Indiana is not complete without the colleges and universities which are not state controlled. From the beginning the people were interested in education. Early many denominational and privately endowed colleges were established. From the ranks of these colleges came teachers, authors, poets, and profes-

sional men who helped to carry the message of the need of education to the people. Soon these messengers of education were able to show the people that state money spent in training young men and women for better and more effective citizenship was a most profitable investment. With the coming of more institutions of learning supported by public taxation these colleges still continued to grow, and to-day they play a large part in the progress of education.

The history of higher education in Indiana has paralleled the freedom of the new country. A state that has made such amazing material progress must develop the broadest and finest men and women to guarantee its continuance.

The table below shows how groups of citizens, individuals, and congregations have endeavored to meet this need.

Institution	*Location*	*Founded*	*Control*	*For*
Butler	Indianapolis	1855	Christian	Coed
DePauw	Greencastle	1837	Methodist	Coed
Earlham	Earlham	1847	Friends	Coed
Evansville	Evansville	1919	Methodist	Coed
Franklin	Franklin	1834	Baptist	Coed
Goshen	Goshen	1896	Mennon.	Coed
Hanover	Hanover	1823	Presbyterian	Coed
Ind. Central	Indianapolis	1902	United Brethren	Coed
Manchester	N. Manchester	1895	Brethren	Coed
Oakland City	Oakland City	1891	Baptist	Coed
Rose Polytech.	Terre Haute	1883	Non Sectarian	Men
St. Marys	Notre Dame	1855	Catholic	Women
St. Marys of the Woods	St. Marys of the Woods	1840	Catholic	Women
Taylor	Upland	1846	Methodist	Coed
Notre Dame	Notre Dame	1842	Catholic	Men
Valparaiso	Valparaiso	1873	Non Sectarian	Coed
Wabash	Crawfordsville	1833	Non Sectarian	Men

The organization of Indiana schools is complete, offering to any child opportunity to prepare himself for a position within his ability.

Questions

To the Pupil:

1. Enumerate the different causes that lead to the greater demands on state government.
2. Account for the movement of population from the rural districts to the cities.
3. Why should the property of a bachelor be taxed to support schools?
4. Give the sources of the state's income.
5. Secure a tax receipt, describe the process leading up to it, and show how it is the last chapter in the whole story of taxation.
6. Why is it economy for a state to protect its working people against physical injury?
7. Show how a state is within its rights when it demands the removal of buildings that threaten the safety of others.
8. How has failure to protect the resources that nature provided affected your country?
9. Explain "a state's real wealth is the health of its people."
10. In what ways does the state help the farmer?
11. Why are the people willing to pay increased taxes for good roads?
12. What public utilities are owned and operated by your city? If none, what are the terms of the franchises granted to public utility companies?
13. What are "blue sky laws"?
14. Show the effect on a state if citizens lose their savings through poor investments or bank or insurance company failures.
15. What professional people in your city are required to have state licenses? What general type of service do they give?

CHAPTER SIX

A SUMMARY OF THE CONSTITUTION
THE LEGISLATIVE DEPARTMENT

Congress.

Each branch of Congress—the Senate and the House of Representatives—has equal power in making laws. Congress meets in regular session on the first Monday in December in each year. Neither senators nor representatives can hold any other office under the United States during their terms as members of Congress. To prevent the forcible detention of members from attending to their duties, members are exempt from arrest in all cases except treason, felony, or breach of the peace, during their attendance at the sessions of Congress, and in going to and returning from the same. To secure absolute freedom of discussion, members cannot elsewhere be held to account for anything said in debate in Congress. Each house is the sole judge of the elections, returns, and qualifications of its own members.

Some of the Powers of Congress.

Congress has power:

(1) To levy and collect taxes,
(2) To borrow money,
(3) To regulate commerce,
(4) To naturalize foreigners,
(5) To coin money,
(6) To fix standards of weights and measures,

(7) To establish post-offices,
(8) To grant copyrights and patents,
(9) To establish courts inferior to the Supreme Court,
(10) To punish piracy,
(11) To declare war,
(12) To raise and maintain an army,
(13) To provide and maintain a navy,
(14) To create new states.

Some of the Powers Denied to Congress.

Congress is forbidden:

(1) To suspend the privilege of the writ of habeas corpus [1] in time of peace,
(2) To pass any bill of attainder,[2]
(3) To pass any *ex post facto* law,[3]
(4) To levy any tax on articles exported from any state,
(5) To give preference to any state in shipping regulations.
(6) To draw money from the treasury except in accordance with law.
(7) To grant any title of nobility.

Some of the Powers Denied to the States.

The several states are forbidden:

(1) To enter into any treaty, alliance, or confederation with each other or with any foreign power,
(2) To grant letters of marque and reprisal,
(3) To coin money,
(4) To emit bills of credit,
(5) To make anything but gold and silver coin a tender in payment of debts.

[1] See page 202.
[2] See page 203.
[3] See page 203.

(6) To grant any title of nobility,
(7) To pass any bill of attainder,
(8) To pass any *ex post facto* law,
(9) To pass any law impairing the obligation of contracts,
(10) To levy any tax on exports.

How Laws Are Made.

A bill may be proposed by members of either branch of Congress. It is then referred to some one of the various committees for investigation. If, after due consideration, it is approved by a majority of the committee, it is reported to the members for action. There are then three ways in which a bill may be enacted into a law:

(1) When passed by both houses of Congress and signed by the President.
(2) When passed by both houses of Congress, vetoed by the President, and re-passed by a two-thirds vote of each house.
(3) When passed by both houses of Congress and retained by the President ten days (Sundays excepted) without being signed by him, provided Congress still remains in session.

By this system of checks on legislation the possibility of passing unsatisfactory laws is greatly reduced.

THE SENATE

Membership.

The Senate represents the states, and consists of two members from each state. Each senator has a vote in Congress. Senators are elected directly by the people of the various states for terms of six years each, and are so classified that the terms of

only one-third of them expire every two years. This classification insures a membership of experienced legislators, and has the effect of making the Senate a continuous or permanent body.

Qualifications. The qualifications required of a senator are three:

(1) He must be at least thirty years of age,
(2) He must have been for nine years a citizen of the United States.
(3) He must be, when elected, an inhabitant of the state from which he is chosen.

Officers. The Vice President is the presiding officer of the Senate. He is entitled to a vote only in case of a tie. The Senate elects from its own number a President *pro tempore* to preside during the absence of the Vice President. The Senate elects all its own officers except its President, unless the electoral college fails to elect, in which case it chooses the Vice President.

Powers. While the Senate is chiefly a legislative body, it also exercises executive and judicial functions. It exercises:

(1) Executive Functions
    (*a*) In confirming the President's appointments of Cabinet officers, judges, post-masters, ministers to foreign powers, etc., and
    (*b*) In assisting the President in making treaties with foreign powers.
(2) Judicial Functions
    (*a*) In judging of the qualifications and elections of its members, and
    (*b*) In acting as a court in cases of impeachment.

THE HOUSE OF REPRESENTATIVES

How Elected.

The House of Representatives represents the people of the United States, and its members are chosen directly by the people of the various states every two years. In such elections all are permitted to vote who are qualified by state laws to vote for members of the lower branch of their state legislature. The right of suffrage is not a natural right, but is a gift of the state, and each state bestows this privilege on such persons as it deems qualified to exercise it, subject to the provisions of the Fifteenth Amendment to the Constitution that "the right of suffrage shall not be denied or abridged to any person on account of race, color, or previous condition of servitude," and the nineteenth amendment provides that citizens of the United States shall not be denied the privilege of voting by the United States or by any state on account of sex.

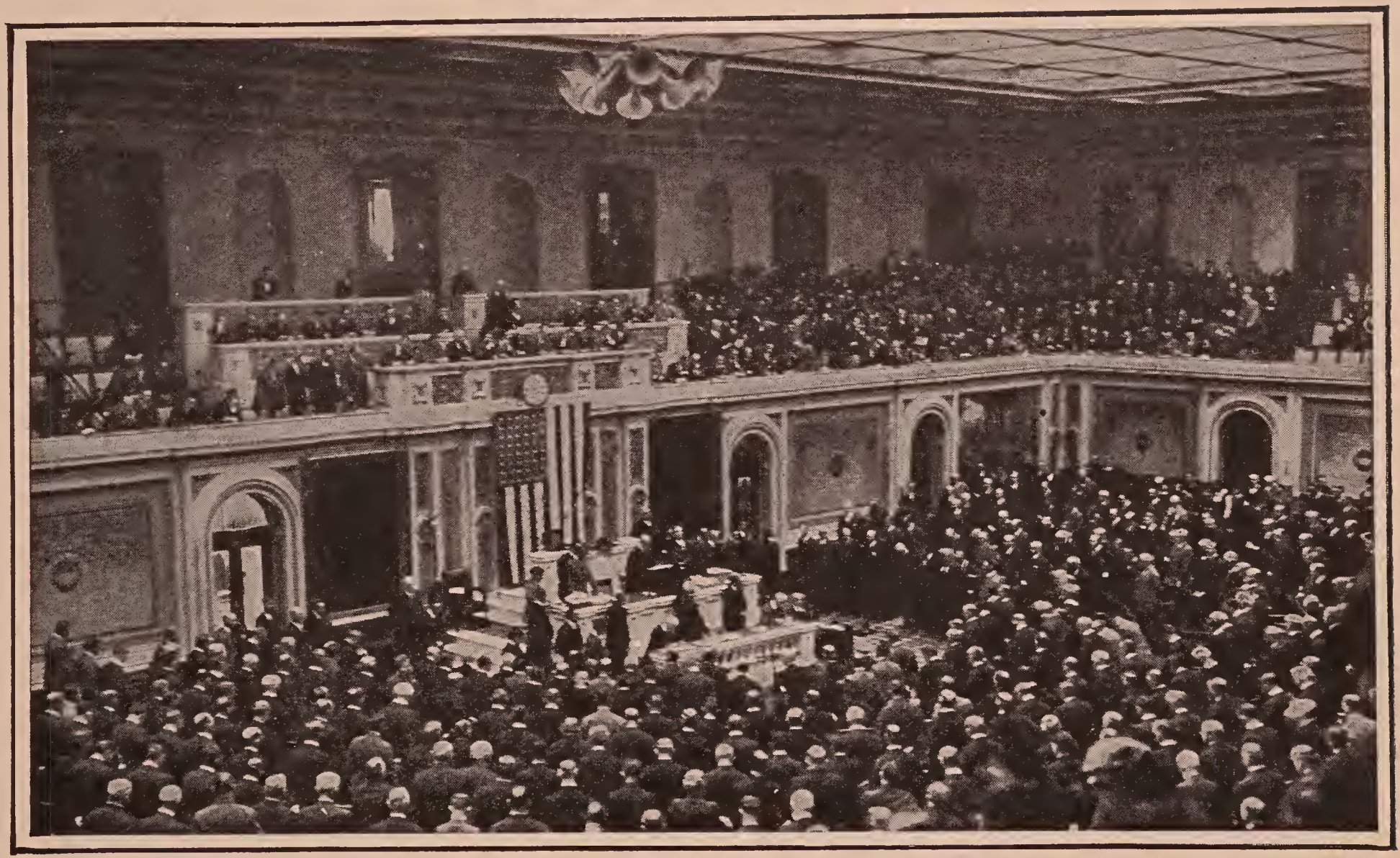
Qualifications.

A member of the House must possess these qualifications:

(1) A representative must be at least twenty-five years of age.
(2) A representative must have been for seven years a citizen of the United States.
(3) A representative must be, when elected, an inhabitant of that state in which he is chosen.

Membership.

The number of members of the House of Representatives is determined by Congress. Every ten years a census is taken to ascertain the population of the country, and as soon as possible thereafter



HOUSE OF REPRESENTATIVES. 68TH CONGRESS

Congress enacts a law regulating the size of the House, dividing the population by this number and apportioning the representatives among the various states. Each state then divides its territory into districts which Congress insists must each be compact, contiguous, and of population nearly equal to each of the others which elect a representative. To save re-districting, state representatives may be elected at large.[1] Every state, however, is entitled to one representative, even though its population is less than the number required to form a congressional district; otherwise, the people in some of the smaller states would not be represented in the lower branch of Congress. The forty-eight states have at the present time four hundred thirty-five representatives. Each territory is entitled to one representative, who enjoys all the rights of members except that of voting.

Ratio of Representation.

The Constitution provides that the ratio of representation shall not exceed one representative to every thirty thousand people. Were the basis of representation to-day as it was after the first census, the House would consist of over three thousand members, a number far too large for the transaction of business. To keep the number within reasonable limits, the ratio of representation has been changed by an apportionment act after each census. The present apportionment is on the basis of the 1910 census. Since taking the 1920 census several un-

[1] "At large" means from the entire state. Every voter in the state is entitled to vote for a member at large.

successful efforts have been made to increase the number of members above 435. Objections were based on the fact that a larger number would make the body unwieldy and cumbersome, and each additional member would increase the expense of government.

The following table shows how the ratio of representation has changed at each decade, the number of population to a representative being given to the nearest thousand only.

RATIO OF REPRESENTATION AT EACH DECADE

Population (to the nearest million)	*Representation based on*	*Date*	*One Representative to every*	*Number of Representatives*[1]
	Constitution	1789	30,000	65
4,000,000	First Census	1790	33,000	106
5,000,000	Second Census	1800	33,000	142
7,000,000	Third Census	1810	35,000	186
10,000,000	Fourth Census	1820	40,000	213
13,000,000	Fifth Census	1830	48,000	242
17,000,000	Sixth Census	1840	71,000	232
23,000,000	Seventh Census	1850	93,000	237
31,000,000	Eighth Census	1860	127,000	243
39,000,000	Ninth Census	1870	131,000	293
50,000,000	Tenth Census	1880	152,000	332
63,000,000	Eleventh Census	1890	174,000	354
76,000,000	Twelfth Census	1900	194,000	391
92,000,000	Thirteenth Census	1910	212,000	435
106,000,000	Fourteenth Census	1920		

[1] Includes representatives assigned to states admitted to the Union after apportionment according to census.

The Speaker.

The House chooses its own officers, the most important of whom is the presiding officer, called the Speaker. The Speaker's position until a few years ago was one of vast influence and power.

He appointed all the committees to whom all bills

were referred for consideration. He thus had it in his power to arrange the committees so as to secure the approval or disapproval of measures of any particular class.

He still has a considerable influence on the work of the House since no member has the right to address the House until recognized by the Speaker. By recognizing, or refusing to recognize a member, the Speaker actually determines what business the House considers.

In a body of 435 members it is necessary that a great deal of the business must be done by committees. There are now nearly sixty of these committees, the most important being those on rules, appropriations, ways and means, interstate and foreign commerce, post-offices, military and naval affairs, and agriculture. Since 1910 these committees have been elected by the members according to a complicated plan. The majority party controls the committees.

Exclusive Powers.

Following the colonial theory that taxes can be levied only by authority of the people as voiced through their representatives, the Constitution provides that all bills for raising revenue must originate in the House of Representatives. In addition to this power the House also has exclusive power in:

(1) Judging of the qualifications and elections of its own members.
(2) Electing the President in case the electoral college fails to elect.

(3) Impeaching the President, Vice President, and all other civil officers of the United States for treason, bribery, or other high crimes and misdemeanors.

THE EXECUTIVE DEPARTMENT

The President. Qualifications.

The executive officer of the United States is the President. His term of office is four years.

The qualifications of a President are:

(1) He must be a native-born citizen of the United States.
(2) He must be at least thirty-five years of age.
(3) He must have been for fourteen years a resident of the United States.

How Elected.

It is a peculiarity of our form of government that we do not vote directly for President, but for electors who choose the President. This plan was adopted in the belief that the people themselves would not make a wise selection. The electors are not legally required to vote for a particular person, but they are morally bound to vote for the person for whom their party elects them to vote.

On the first Tuesday after the first Monday in November of every fourth year the voters of each state choose as many presidential electors as it has senators and representatives in Congress. The whole number of electors from the various states now is 531 and constitutes what is called the Electoral College. The electors in each state meet at a place designated by the state legislature, usually the state capitol, on the second Monday of January

WASHINGTON'S INAUGURATION

and cast their ballots for President and Vice President. Three certified copies of the result of the balloting are made; one is then sent to the President of the Senate at Washington by personal messenger; a second by registered mail; and the third is filed for record with the federal court in the district where the electors meet. After this is accomplished the "electoral college" has no further legal existence. On the second Wednesday in February the returns from all the states are opened and counted in the presence of Congress; *i.e.*, the Senate and House of Representatives jointly assembled. The President of the Senate, who is usually the Vice President, is the presiding officer. The person receiving a majority of the whole number of electoral votes is then declared President. In case there is no choice, the House of Representatives then chooses the

President. Balloting is then limited to the three candidates who have received the highest number of electoral votes. The representatives cannot vote individually but as a unit, each state having one vote. A majority of all the states is necessary for a choice. Two Presidents—Thomas Jefferson and John Quincy Adams—have been elected by the House. If no candidate receives a majority vote by March 4, the newly elected Vice President acts as President. If no Vice President has a majority of the electoral vote, the Senate chooses a Vice President from the two highest candidates. A majority vote is also required in this case.

Duties. The President's oath of office requires him to "preserve, protect, and defend the Constitution of the United States." He is invested with large powers, which may be roughly classified as follows:

Executive Powers.

(*a*) To see that the laws are faithfully executed.

(*b*) To appoint officers, judges, postmasters, ministers to foreign powers, etc., subject to the approval of the Senate, and in order that he may have sufficient power to carry out his oath he is made commander-in-chief of the army and the navy.

(*c*) To grant pardons, except in cases of impeachment.

In addition to the foregoing executive powers, the President has certain important legislative powers classified as follows:

Legislative Powers.

(*a*) To advise Congress as to the state of the Union, and to recommend such legislation as he thinks proper.

(*b*) To call extra sessions of Congress when he deems it necessary.
(*c*) To approve or disapprove laws enacted by Congress.
(*d*) To make treaties with foreign powers, subject to the approval of the Senate.

The Vice President.

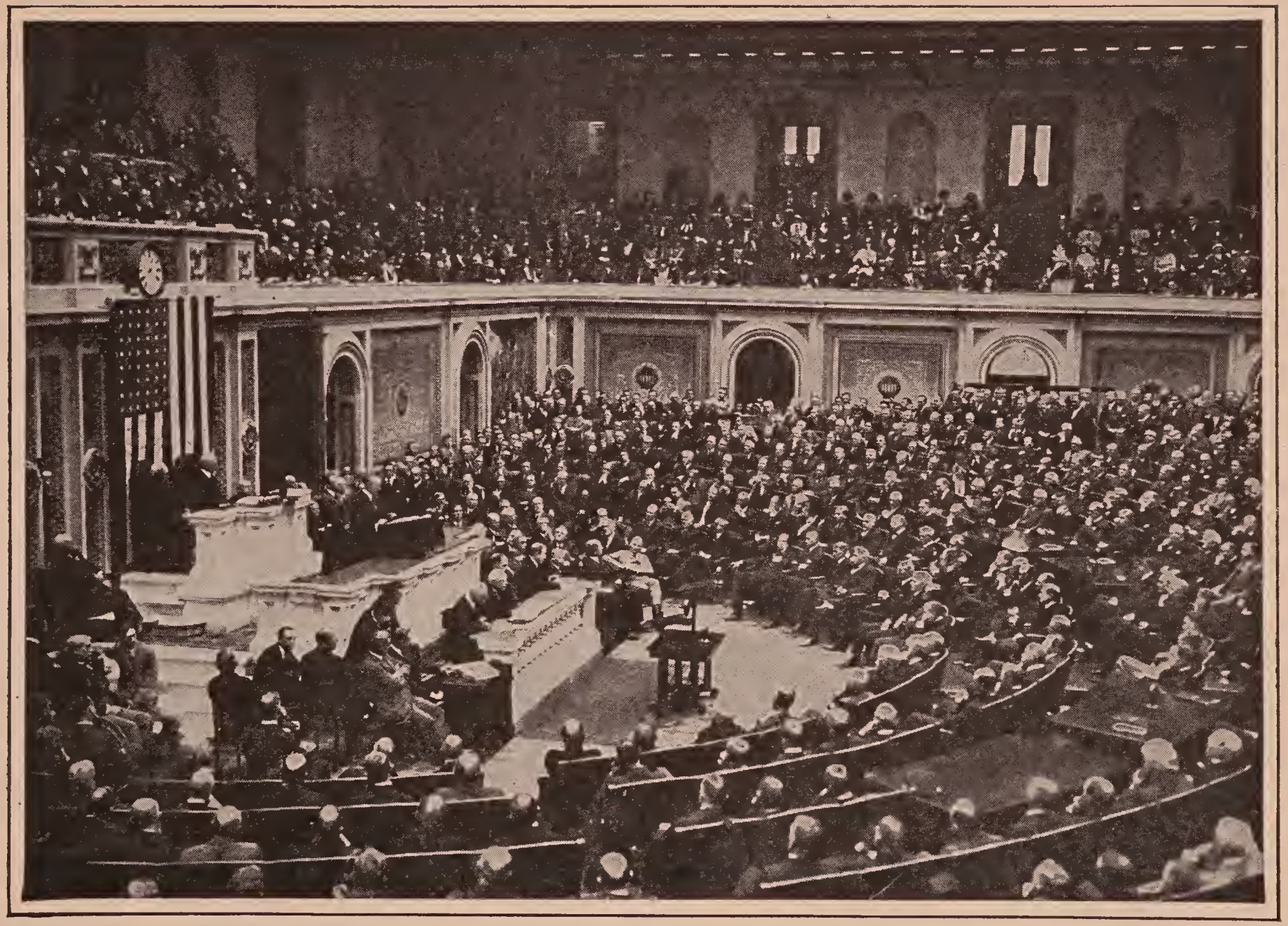
The Vice President must possess the same qualifications as the President, and is elected in the same manner. In case the electoral college fails to choose a Vice President, the Senate has power to elect. The duties of the Vice President are:

(*a*) To preside over the Senate.
(*b*) To succeed to the Presidency in case of a vacancy in that office.

The Cabinet.

The duties of the executive are so many that it is impossible for the President personally to attend to them all. The executive branch, therefore, is divided into ten departments, each having a head selected by the President, subject to confirmation by the Senate. The heads of these departments manage the affairs of their respective departments and act as advisers to the President, although he is not bound by any law to follow their advice. Collectively, they constitute what is called the cabinet. These officers in order of creation are as follows:

(1) *Secretary of State,* who:
Negotiates treaties.
Administers foreign affairs.
Has custody of great documents, treaties, and federal laws.
Keeps and affixes the Great Seal.



President Coolidge's Message to Congress

Directs Ambassadors, Ministers, and Consuls.
Issues passports.

(2) *Secretary of Treasury,* who directs:
Finance of the nation.
Collection, safekeeping, disbursement of revenues.
Coining and engraving of money.
Enforcement of Prohibition Law.
Construction of federal buildings.
Coast Guard.
Public Health Service.
Secret Service.
National and Federal Land Banks.
Bureau of the Budget.

(3) *Secretary of War,* who directs:
Personnel and supplies of the army.
Improvement of rivers, harbors, and canals.
Defenses of the nation.
Bureau of Insular Affairs.
Government of Philippines and Porto Rico.
Military Academy at West Point.

(4) *Attorney General,* who is:
Government lawyer.
Legal adviser of the President and Federal Officers.
Government Prosecutor.

(5) *Postmaster General,* who directs:
Postal Service.
Parcel Post.
Postal Savings System.
Money order transmission.

(6) *Secretary of Navy,* who directs:
Material and personnel of the navy.
Construction, armament, and employment of vessels of war.

Protection of American property abroad.
Aircraft Service.
Navy yards, docks, naval Training Stations.
Marine Corps.

(7) *Secretary of Interior,* who directs:
National Parks.
Public Lands.
Pensions of Soldiers.
Indian Affairs.
Patent Office.
Bureau of Mines.
Reclamation Service.
Bureau of Education.
Alaska Railroad.
Geological Survey.

(8) *Secretary of Agriculture,* who directs:
Collection and distribution of information valuable to the agricultural interests.
National Highway Construction.
Forest Service.
Weather Bureau.
Enforcement of Pure Food and Drugs Act.

(9) *Secretary of Commerce,* who directs:
Our commercial interests.
Census Bureau.
Foreign and Domestic Commerce.
Bureau of Standards.

(10) *Secretary of Labor,* who directs:
Welfare of wage earners.
Immigration and Naturalization.
Enforcement of Immigration Laws.
Americanization of Immigrants.
Children's and Woman's Bureau.
Welfare of children and working women.
Mediation in labor troubles and disputes.

PRESIDENTIAL SUCCESSION

When operative.

The Constitution (Art. II, Sect. 1, Cl. 6) provides that in case of the removal, death, resignation, or inability of the President to perform the duties of his office, the Vice President shall succeed to the Presidency. By the same clause Congress is empowered to determine by law what officer shall perform the duties of the Presidency in case of the removal, death, resignation, or inability of both the President and the Vice President.

In 1791 Congress enacted a law providing that the succession should devolve first upon the President *pro tempore* of the Senate, and secondly upon the Speaker of the House.

Order of succession.

The above law was repealed in 1886 and a new one enacted which provides that the succession shall devolve upon the members of the Cabinet in the following order, provided each can comply with the constitutional qualifications demanded of the President: (1) Secretary of State, (2) Secretary of the Treasury, (3) Secretary of War, (4) Attorney General, (5) Postmaster General, (6) Secretary of the Navy, (7) Secretary of the Interior. The law further provides that the person thus succeeding to the Presidency shall hold that office only until the disability of the President shall be removed or a new President shall be elected. On taking office the Acting President must, if Congress is not in session or is not to convene within twenty days, at once call Congress together in extraordinary session.

The order of succession was established by an act of Congress in 1886 and no mention was made of Secretaries of Agriculture, Commerce, and Labor, whose departments had not been organized at that time.

Questions

To the Pupil:

1. Name and give the function of the branches of government which have a voice in making our laws.
2. What special privileges are permitted congressmen which other citizens do not enjoy? Give reasons for such discrimination.
3. What would be the effect of giving Congress unlimited power?
4. Tell how any of the powers granted Congress have been exercised during the last few years.
5. From the list of powers granted to Congress select one and show how it has been and can continue to be the basis of legislation that "promotes the general welfare."
6. From the list of powers forbidden Congress show how removing the restrictions might affect "the general welfare."
7. Show how granting states the powers denied them would affect the United States.
8. Tell the process by which a bill becomes a law.
9. Sometimes a single committee has over one thousand bills referred to it for consideration. How does this affect legislation?
10. What are the advantages of a bicameral or two-body legislature?
11. The makers of the Constitution planned to have the Senate composed of older, more experienced, and better trained men than those in the House. What provisions are made in an effort to realize this aim?
12. Justify the requirement that all bills for raising money originate in the House of Representatives.

13. How many representatives can a state have?
14. How many representatives has your state? Name the one from your district. Name the states that have only one representative.
15. Name and give the political career of the senators from your state.
16. State three powers vested exclusively in Congress.
17. Members of Congress receive many letters and telegrams urging them to vote for or against certain bills. Should a member vote according to his own feelings or according to the desires of the people?
18. What is the distinct purpose of the House of Representatives?
19. Discuss the speaker of the House and the Committee System, naming the present speaker and mentioning his political party.
20. What persons are eligible to become candidates for the Presidency?
21. Give the process of election of a President and a Vice President.
22. Why are the qualifications of a President and Vice President the same?
23. How does the present method of electing a President differ from the original plan?
24. Classify and give the powers of a President.
25. President Harding was the first President to invite a Vice President to meetings of the cabinet. Defend his action.
26. Name five distinguished Senators. Five distinguished members of the House of Representatives. Name the present women members of the Senate or the House.
27. What are reasons for the existence of the Cabinet?
28. Name the present Cabinet officers.
29. On the night that President Lincoln was assassinated an effort was made to assassinate the Vice President, the Secretary of State, and the Secretary of War. If all had been assassinated, what officer would have taken the oath of office as President?

Things to Do:

1. Find and bring to class for discussion any newspaper or magazine articles that refer to Congress exercising any of its powers.
2. Prepare a five-minute paper or talk on any one of the bureaus of the executive department at work. Refer to Haskin's "American Government."
3. Using Bryce's "American Commonwealth," prepare a report on the Senate or the House or the Election of President or why great men are not chosen for President.
4. Referring to the table on ratio of representation by decades, find: (*a*) which ten-year period shows the largest growth in population; (*b*) the least growth in population; (*c*) in which period was the greatest number of people represented by one representative; (*d*) approximately how many times larger is the basis of representation to-day than in 1789; (*e*) how many times larger is the population during the same period; (*f*) and try to account for any periods of extraordinary increases.
5. Debate—*Resolved,* That the method of electing our President should be changed.
6. Make a table similar to the following and fill in the information required to complete it.

	Executive	*Senate*	*House*
Number of Members....	.....	.....	.....
Basis of Representation..	.....	.....	.....
Qualifications	.....	.....	.....
Term of Office.....	.....	.....	.....
Vacancies—how filled....	.....	.....	.....
Sole Powers.....	.....	.....	.....
Title of Presiding Officer.	.....	.....	.....
(*a*) How he is selected...	.....	.....	.....
(*b*) Voting privilege.....	.....	.....	.....

CHAPTER SEVEN

THE JUDICIAL DEPARTMENT

The Supreme Court.

The Supreme Court was established by the Constitution, and its decision in all cases is final. It consists of one chief justice and eight associate justices who are appointed by the President for life or during good behavior.

The real function of the Supreme Court is to interpret the laws. In general, the cases over which the Federal Courts have jurisdiction or the legal right to hear and decide are listed in Section 2 of Article III of the Constitution.

The Supreme Court has "original jurisdiction"; *i.e.*, the right to hear and determine a case in the first instance only when the cases are between states and those in which ambassadors, other public ministers, and consuls are parties. Most of the work, however, is in hearing cases which originate in and are appealed from the inferior courts.

The Supreme Court, contrary to the common belief, does not have full power to nullify laws presumed to be unconstitutional. It can act only when the issue is submitted in a "case" where definite questions are asked disclosing a tangible infringement of the Constitution.

If we consider the procedure in a Supreme Court case briefly, we find that, after arguing a case, the

United States attorney-general or his representative presents a brief to the court to support his contentions that the law in question is in accordance with the Constitution. The attorneys maintaining that the law is unconstitutional after their argument also present a brief to support their contentions. These briefs may be studied by each justice or assigned to a justice who makes a study of the contentions of both sides and also determines whether any previous similar judicial decisions are applicable. When the examination of the case is completed, a conference of the judges is held. If the court is unanimous, the Chief Justice then assigns one member to prepare "the opinion of the court," which is again submitted for criticism to the other judges, and when satisfactory to the majority of the court, it is adopted as the "judgment of the court" before being officially published. If one justice agrees with the decision yet does not agree with the line of reasoning used in determining the judgment of the court, he may prepare what is termed a "concurring opinion." If the court is divided, the minority may file what is termed a "dissenting opinion." Whenever the American people seriously dislike a decision of the Supreme Court, they have recourse to a remedy in the form of an amendment to the Constitution. As a result of the decision in the case of *Chisholm.* vs. *Georgia,* the Eleventh Amendment was added to the Constitution, and the Sixteenth Amendment virtually set aside a decision in *Pollock* vs. *Farmers Loan* declaring the Income Tax of 1894 unconstitutional.

Inferior Courts.

The Constitution gives Congress power to create courts inferior to the Supreme Court. The principal inferior courts established by Congress are:

(1) *Circuit Courts of Appeals.* The country is divided into nine circuits, and a court called a Circuit Court established in each, with a Supreme Court Justice assigned to each, assisted by other judges specially appointed as judges of the Circuit Courts. These Circuit Courts were organized to relieve the Supreme Court, especially to hear cases appealed from lower courts.

(2) *District Courts.* Each circuit is subdivided into districts, and a court called a District Court [1] or trial court established in each. There are at present over eighty district courts and approximately one hundred and seventeen district judges.

(3) *Court of Claims.* There is also another court, called the Court of Claims, which is entirely independent of the courts just mentioned. The United States being a sovereign power cannot be sued, and this court is established for the purpose of hearing cases arising on account of salaries, payment for supplies, and listening to the claims against the United States of persons whose property has

[1] The civil jurisdiction in this court, the lowest of all Federal Courts, relates chiefly to admiralty and maritime cases, cases of bankruptcy, those arising under statutes and treaties, between citizens of different states or citizens of a foreign state where the sum or value exceeds $3,000, all crimes or offenses recognized by the federal laws except those punishable by death, postal cases, suits arising under patent, copyright or trademark laws, suits against trusts and monopolies, and those brought by any person to redress the deprivation of any right, privilege, or immunity secured by the Federal Constitution or laws.

been seized and used by the government. The Court of Claims reports the result of its investigations to Congress. Congress then makes such restitution to the claimants as it deems best.

(4) *Court of Customs Appeals.* This court has jurisdiction over claims against the government arising from the administration of the tariff and customs laws.

(5) *Territorial and District of Columbia Courts.* There is a Supreme Court of the District of Columbia, and Supreme District courts are organized in each Territory.

AMENDMENT OF THE CONSTITUTION

Two Methods.

Realizing that the requirement of the unanimous consent of the states to amend the Articles of Confederation practically made their amendment impossible, and feeling that as the nation grew it might be desirable to make some changes in the Constitution, the framers of the Constitution made provision for such changes as follows:

(1) Proposed amendments, approved by a two-thirds vote of both houses of Congress, are sent to the state legislatures or to state conventions for consideration. If ratified by three-fourths of the states, the amendments then become part of the Constitution.

(2) When requested by two-thirds of the state legislatures, Congress is obliged to call a national convention for proposing amendments. If the amendments proposed are ratified by

three-fourths of the states, they become part of the Constitution.

Up to the present time all amendments to the Constitution have been made by the first method.

Amendment by Interpretation.

Without doubt it was the intention of the framers of the Constitution to devise a plan by which the Constitution could be amended with reasonable ease. As a matter of fact, however, the methods provided are very cumbersome in operation, and of the great number of amendments (nearly two thousand in all) that have been proposed at various times, only nineteen have been adopted. While, in theory, the Constitution means exactly the same as it did when adopted, and therefore should be interpreted according to the conditions existing at the time of adoption; yet, in practice, it has become customary to interpret it in the light of present needs. Thus, change by interpretation, rather than by amendment, is, and probably will always remain, the chief method by which modifications are brought about.

The Nineteen Amendments.

Of the nineteen Amendments which have been added to the Constitution since its adoption, the first ten—frequently called a Bill of Rights—were adopted in the early part of Washington's administration in consequence of a widespread feeling that certain rights belonging to individuals were not clearly defined in the Constitution as originally adopted. The eleventh, providing for certain limitations of judicial power, was also adopted in

Washington's administration. The twelfth, changing the method of electing the President and the Vice President, was adopted in Jefferson's administration. In sixty one years from 1804 to 1865, not a single amendment was adopted. The thirteenth, adopted in Johnson's administration, abolished slavery. The fourteenth, also adopted in Johnson's administration, gave the freedmen the right of citizenship, and provided for several contingencies growing out of the Civil War. The fifteenth, adopted in Grant's administration, forbade the denial or abridgment of the right of suffrage to any citizen on account of race, color, or previous condition of servitude. In five years, 1865 to 1870, the three last mentioned amendments were ratified. After an interval of forty-three years with no amendments to the Constitution the sixteenth was adopted in Taft's administration which gave Congress the power to levy and collect taxes on incomes. The seventeenth, also adopted in Taft's administration, provided for the election of senators by the people. The eighteenth amendment prohibited the manufacture, sale, transportation, importation, and exportation of intoxicating liquors, while the nineteenth, better known as the "Woman Suffrage Amendment," granted women the right to vote. Both the eighteenth and nineteenth amendments were adopted during the administration of President Wilson. Authorities have been led to term the Constitution a formidable apparatus for the prevention of sudden change.

Questions

To the Pupil:

1. What is the function of the Supreme Court?
2. How are federal judges selected and how long do they serve?
3. Name and give the jurisdiction of the inferior courts.
4. What federal court sits in your section of the state? What cases does it try?
5. Show what control Congress or the President has over the Supreme Court. Why?
6. Name the judges of the Supreme Court.
7. Explain the methods of amending our Constitution.
8. Summarize the amendments to the Constitution by groups.
9. What was the longest period of time the Constitution went without being amended? Give the amendments due to social reforms.
10. If any amendments are awaiting ratification of the states, discuss the need for such amendments.
11. Justify our present system of ratification by which the state with the largest population has no more power than the state with the smallest population.
12. Discuss the fact that when President Washington in 1793 sought an opinion of the Supreme Court on certain points regarding a treaty with France it declined to answer, holding that it could give decisions only when a case was brought before the court.
13. What are the reasons for the Supreme Court deciding "legal" controversies and refusing to consider "political" controversies?
14. Some people advocate a "recall" of judges. Give the dangers of such a move.
15. What would be the result if we elected our judges by popular vote?
16. The Judges of the Supreme Court wear black gowns while on the bench and are the only public officials who wear an official dress. Why are we so opposed

to official ceremony and dress? Why is it considered proper here?

Things to Do:

1. List for discussion and give reasons for any amendments you think should be added to the Constitution.
2. An amendment to the Constitution has several times been suggested in Congress providing that if the Supreme Court declared an act of Congress unconstitutional and the same act is again passed by Congress by a two-thirds vote, it shall become Constitutional. Prepare an argument for or against such action.
3. Appoint a committee to draw up a list of ten or more questions of interest regarding the Supreme Court and amending the Constitution. Post the list for members of the class. At a stated recitation place each question on a numbered slip of paper. Draw slips. Each member should be prepared as the number of his slip is called to give a three- or five-minute talk on the subject indicated, or he should be able to talk extemporaneously on any of the topics selected by chance.

CHAPTER EIGHT

THE UNWRITTEN CONSTITUTION

The Constitution, with the exception of a few amendments, has remained the same outwardly and withstood the test in this age of changing governments and conditions without destructive alteration.

This remarkable record is due largely to the foresight with which the Constitution was drafted, its brevity, the conservatism the document promoted among the people, and the use of general terms flexible in application. A single clause of little value in itself but far reaching in importance has given an opportunity to develop powers not mentioned or even anticipated when the Constitution was framed. Many regard this elastic clause as one of the most important if not the most important clause in the whole Constitution, because it has been largely the basis of the development of our unwritten Constitution when applied to different clauses in the Constitution to make them fit present conditions.

When it is possible to apply the words "necessary and proper for carrying into execution" to the limited powers set forth in the Constitution, the government can frequently act in ways that would not seem warranted by the strict interpretation of the document. John Marshall was called "the second maker of the Constitution." When he be-

came Chief Justice only two decisions on Constitutional law had been pronounced by the Court. During his thirty-four years of service fifty-one decisions were handed down. Bryce said, "His work of building up and working out the Constitution was accomplished not so much by the decisions he gave as by the judgment in which he expounded the principles of these decisions, judgments which for their philosophical breadth, the luminous exactness of their reasoning, and the fine political sense which pervades them, have never been surpassed and rarely equaled by the famous jurists of modern Europe, or of ancient Rome."

The general common sense and clarifying opinions of Marshall and his associates and successors have determined a policy that makes possible legislation to meet our changing needs without disturbing the original form of the Constitution.

In this manner the unwritten Constitution has become largely the basis for our government with the framework of limited powers in the background to safeguard the fundamental principles of our democracy.

Expansion by Court Interpretation.

The meaning of the Constitution rests on judicial interpretation and the construction of law, although the obvious way of changing it is by amendment.

Laws passed by Congress, by state legislatures, acts of executive officers, consolidated public opinion voiced in law, are all subject to challenge as to constitutionality, and a test case finds its way into the Supreme Court.

The burden of proof in a "case" must come from those who assert the existence of a right. It is necessary to show the court where the Constitution grants an asserted right, either in an expressed power or in an implied power.

If nothing directly or indirectly confers it, the law is null and void. Unless the proposition is raised in the trial of the cause and its presentation to the court, a court is loath to raise the point itself in the first instance. It is also the custom of the court to pass the Constitutional question if the case may be disposed of by the decision of other questions. When forced to do so, however, the Supreme Court decides whether an asserted right is in harmony or conflicts with the Constitution.

Two basic principles have been laid down for liberal interpretation:

1. "Every power alleged to be vested in the National government or any organ thereof must be affirmatively shown to have been granted."

2. "When once the grant of power by the people to the National government has been established that power will be construed broadly."

When it has once been shown after due search of the Constitution that there is definite authority to grant a power it may be applied in a liberal way. For instance, the Constitution states that Congress has the power to regulate commerce. Under an early decision the Supreme Court ruled that Commerce included traffic, trade, navigation, communication, the transit of persons and the transmission

of messages—indeed every species of commercial intercourse.

Guided by this ruling Congress passed the Interstate Commerce Law which has been frequently amended until it includes railway and steamship lines, express companies, telegraph, telephone and wireless transmission of messages, brought under control of the Interstate Commerce Commission which regulates rates and has the authority to regulate the business practices of those engaged in interstate commerce.

Congress has enacted other laws requiring safety devices on railroads, federal employers' liability, limiting the hours of continuous service for train crews, even creating a Railroad Labor Board to settle disputes with respect to wages of employees and working conditions.

This very clearly shows that when once power is granted the strictness of the initial step permits liberality in application.

Other nations are amazed at the ease with which public opinion is interpreted in the decisions of the Supreme Court. In 1803 public opinion sanctioned the purchase of Louisiana. President Jefferson felt uneasy about the constitutionality of his act when he negotiated and completed the purchase, although he acquiesced in Albert Gallatin's justification of it as an exercise of treaty-making power. Jefferson felt that every power should be specifically stated in the Constitution and desired an amendment to validate his act. Congress and the people as well

felt otherwise about it, and signified that approval of the legislatures were sufficient since Congress was authorized to "provide for the common defense and general welfare of the United States." Later this act rather than any specific provision in the Constitution served as a justification for our subsequent additions of territory.

In 1798 the people generally disapproved the Alien and Sedition Acts, and this disapproval has prevented any similar legislation.

We could enumerate other cases in which the importance of interpretation depends on what the majority regard as necessary to the general welfare of the people. On the courts then rests the responsibility of searching for the power that permits general public opinion to be voiced in the law.

Implied Powers.

We have seen that our government has frequently had to act in ways that do not seem warranted by a strict interpretation of the Constitution. In such cases the doctrine of implied powers has been used in justification.

In 1791 Alexander Hamilton urged his friends to charter a Bank of the United States to handle funds of the government. Congress had not been given the power to create a corporation; in fact the right to that particular power had been defeated in the Philadelphia Convention. Hamilton argued that the implied power was given under the "necessary and proper" clause. He maintained that "necessary" meant "suitable," thus starting a controversy which ended in the courts generally agreeing that the word

"necessary" be interpreted as meaning "convenient." After some debate and delay Washington signed the bill making that particular phrase the true basis for the growth of the doctrine of implied powers.

Out of this doctrine has grown a perfect maze of interpretations and decisions extending to practically every clause and amendment. Consulting an annotated edition of the Constitution, you will be surprised at what has befallen the simple language of the Constitution as it has gone through the process of application to our growing needs.

Financial legislation involving various modes of taxation, creating a system of custom houses, revenue cutters, and tariff for protection of our industries have been the outgrowth of implied powers. Interstate commerce regulations, regulation of railroad rates, power to control immigration expected by the "makers" to be unrestricted, the control of navigation, construction of public works, and many rights not enumerated are regarded today as absolutely essential to the common good and general welfare of our citizens.

Court decisions which narrow the limits of state jurisdiction tend to widen the authority of the Federal Constitution, and the whole process of government becomes more complicated as the courts which have the responsibility of "liberal interpretation" grant powers demanded by the trend of the times.

The Constitution is so elastic that there is almost no limit to the extension of the powers of the

Federal Government by means of judicial interpretation. The only thing necessary is to have sufficient justification and a national public opinion which favors extension. Congress to-day is given powers little dreamed of by the makers of the Constitution. The Department of Agriculture alone includes bureaus such as weather, animal husbandry, plant industry, chemistry, soils, crop estimates, and markets—justified by demands made by the people.

The wonderful progress made since the Constitutional Convention and the unforeseen changes met by the extension of implied powers leads us to wonder what changes will occur when extended into the future for an equal period of time.

Restraining the Power of Interpretation.

In discussing implied powers the conclusion might be drawn that there is no limitation on the extension or interpretation of the Constitution.

This is not true primarily because our federal courts according to policy are composed of judges appointed for their special fitness and conservative tendencies rather than their political affiliation. Federal judges are independent because they are appointed for life or good behavior, but subject to removal by impeachment, and are also bound by their respect for the power of public opinion.

Alexander Hamilton in the *Federalist* discussed the relative powers of the three departments of our government. "The Executive not only dispenses the honors," he said, "but holds the sword of the community. The Legislature not only commands the purse, but prescribes the rules by which the

duties and rights of every citizen are to be regulated. The Judiciary, on the contrary, has no influence over either the sword or the purse—and can take no active resolution whatever. It may truly be said to have neither force nor will but merely judgment. This simple view of the matter suggests several important consequences—it proves incontestably that the judiciary is beyond comparison the weakest of the three departments of power, that it can never attack with success either of the others, and that all possible care is requisite to enable it to defend itself against their attacks."

It can easily be seen that the judiciary will not be able to dominate other departments of government and naturally depends on the will of the people for its moral support.

Back of the entire government is the power of public opinion. It operates constructively in the following manner. Private organizations carry on a certain line of work with the result that public opinion insists that it meets a state need. It is then taken over by a single state, afterward by other states until public opinion demands that the national government enact a law to assume the enterprise. A test case may be made and the Supreme Court, noting the trend of public opinion, searches for power to take over the enterprise and is usually successful if the facts in the case warrant it. The application of the Doctrine of Public Policy receives serious consideration in every case and is just as effective in restraining the court as in encouraging

broader interpretation. There is no doubt that in America public opinion will have a restraining influence and continue to hold the balance of power.

The whole scheme is much better in a democracy than a fixed constitution because its very elasticity enables the people to secure changes impossible under a more complicated system. Judge Cooley says in part: "We may think that we have the Constitution all before us; but for practical purposes the Constitution is that which the government, in its several departments, and the people in the performance of their duties as citizens recognize and respect as such."

Development by Custom.

The Constitution is very definite in delegating some powers. We may wonder how other seemingly important powers were entirely omitted. In some cases this was intentional because the Convention could not agree on certain propositions and thought it best to omit rather than specify some that might develop serious controversy.

There are some features of our government that are neither in the Constitution nor upon any statute but rest entirely on custom.

The presidential electors by custom vote as pledged by their political party rather than exercise the discretion granted by the Constitution.

The President is not reëlected more than once because of custom.

The Senate usually approves the cabinet officers appointed by the President regardless of its right to refuse confirmation.

Custom requires a member of Congress to be a resident of the district from which he is chosen although no federal enactment covers the case.

The right of a state to secede from the Union is no longer claimed.

The cabinet as a collective body is not mentioned in the Constitution nor by an Act of Congress. The written Constitution provides only that the President "may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices." This gives no power to call a meeting to discuss matters of diplomacy. Now the cabinet meets on one day a week known as Cabinet Day. No minutes of the meetings are kept, and the President is not bound by a vote of his cabinet. It is an advisory group of the same political party as the President and bears an important part in government.

Custom permits National Party Conventions for the purpose of nominating candidates for the presidency. Woodrow Wilson, in discussing custom, said, "Custom never ceases to build up practices legal in character yet wholly outside formal Law, constricting even in its action on Congress and great parts of great Constitutions. It constantly maintains the great forces of precedent and opinion which daily work their will under every form of government upon both the contents and the administration of the law. Custom is Habit under another name; and Habit in its growth, while it

continually adjusts itself to the standard fixed in formal Law also slowly compels formal Law to conform to its abiding influences."

Questions

To the Pupil:

1. What do we mean by an unwritten constitution?
2. Repeat the part of the "elastic clause" and the preamble that largely gives the basis to the unwritten constitution.
3. Why is John Marshall called the "second maker of the Constitution"?
4. Give an instance of a law enacted for the general welfare of the people first by the states and later by the federal government.
5. Why is the Supreme Court called "the balance wheel of the Constitution"?
6. What are two basic principles for liberal interpretation of the Constitution?
7. Give an example of public opinion being interpreted in a decision of the court.
8. How does a Chief Justice such as John Marshall become so influential in decisions when he has no more voting power than the other justices?
9. What is the Doctrine of Implied Powers?
10. From Hamilton's discussion answer the propagandists who assert the Supreme Court has too much power.
11. What is the Doctrine of Public Policy?
12. Enumerate the customs that have become a part of our government.
13. Using Woodrow Wilson's summary on custom, give your opinion as to whether you believe we will be guided more and more by custom as our nation grows older.
14. What significance can be attached to the fact that the last few cabinet positions have been created by taking bureaus out of the Department of the Interior?

15. Be able to give a five-minute talk on John Marshall and the unwritten constitution.
16. What would have been the effect on our Constitution if the idea of an unwritten constitution had not been developed?
17. Why do not the state constitutions generally recognize this idea of an unwritten constitution?

THE OATH OF ALLEGIANCE

The oath which the petitioner takes is:

"I HEREBY DECLARE ON OATH, THAT I ABSOLUTELY AND ENTIRELY RENOUNCE AND ABJURE ALL ALLEGIANCE AND FIDELITY TO ANY FOREIGN PRINCE, POTENTATE, STATE OR SOVEREIGNTY, AND PARTICULARLY TO (NAME OF SOVEREIGN OF COUNTRY), OF WHOM I HAVE HERETOFORE BEEN A SUBJECT; THAT I WILL SUPPORT AND DEFEND THE CONSTITUTION AND LAWS OF THE UNITED STATES OF AMERICA AGAINST ALL ENEMIES, FOREIGN AND DOMESTIC, AND THAT I WILL BEAR TRUE FAITH AND ALLEGIANCE TO THE SAME."

CHAPTER NINE

UNITED STATES CITIZENSHIP

Citizenship Defined.

While the word "citizen" is frequently used in the Constitution, no definition of its meaning is given in the Constitution as originally adopted. In the Fourteenth Amendment, however, adopted in 1868, citizenship is defined as follows:

> "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

A double citizenship is thus recognized:

(1) A United States citizenship, and
(2) A state citizenship.

One of the greatest defects of the government under the Articles of Confederation was, as we have seen before, that it operated upon states and not upon individuals. This defect was overcome by the creation of a United States citizenship whereby the Constitution operates directly upon individuals. The United States citizenship is superior to the state citizenship, and a citizen's loyalty is due first to the United States, and then to the particular state in which he resides.

How an Alien may Acquire Citizenship.

A subject of a foreign power residing in the United States is called an alien. The process by which an alien becomes a citizen of the United States is called "naturalization." Naturalization is limited to persons who:

(1) Can speak the English language,
(2) Are of good moral character,
(3) Believe in organized government,
(4) Are opposed to polygamy,
(5) Intend to reside permanently in the United States, and
(6) Come from a state which is at peace with the United States.
(7) Attached to the principles of the Constitution of the United States.

Process of Naturalization.

Naturalization is permitted to all peoples except certain of the yellow race and is accomplished as follows:

(1) *Declaration of Intention.* An alien wishing to become a citizen of the United States must first make a declaration under oath before a court of record of his intention to become a citizen, and to renounce all allegiance to any foreign power.

(2) *Petition for Naturalization.* Not less than two years after filing his declaration of intention, and after not less than five years' continuous residence in the United States, he may file in any court of record, a petition for naturalization, proving by two witnesses who are citizens of the United States that he has been a resident of the United States for five consecutive years, and, during the year preceding

his petition, a resident of the state in which he makes application for admission. His children who are under twenty-one years of age also become citizens by his act.

Since 1922 his wife, like an unmarried alien woman, must take steps of naturalization the same as her husband.

The citizenship of a married woman is now independent of her husband's. If an American woman marries a foreigner and still lives in the United States, she retains her citizenship. An alien woman who marries an American and comes here to live must be naturalized before becoming a citizen, but the period of complete naturalization in her case is one year.

(3) *Admission.* If the court is satisfied with the truthfulness of the statements, the applicant may then become a citizen by:

(*a*) Renouncing all allegiance to any foreign power.
(*b*) Renouncing all foreign titles or orders of nobility, and
(*c*) Making oath to support the Constitution of the United States.

The United States citizenship thus created does not necessarily entitle the citizen to the right of suffrage. The privilege of voting is a gift of the state, and is conferred at the pleasure of the individual states. In some states aliens who have filed their declaration of intention are permitted to vote, while in others the privilege is granted

only to those who are actual citizens of the United States.

Validity of Naturalization in the United States.

The United States has always contended that any citizen of a foreign nation has the right to expatriate himself and become a citizen of the United States. The attitude of the United States on this question was set forth fully and explicitly in the Koszta case in 1853. In 1850 one Martin Koszta, a Hungarian by birth, came to America and declared his intention to become a citizen of the United States. After about two years' residence in the United States he went to Smyrna where the American diplomatic representative granted him a kind of guarantee of safe conduct. While in Asia Minor in 1853, he was arrested by the Austrian government on account of his complicity in a rebellion in his native land prior to his coming to America. His appeal to the United States government for protection on the ground that he had applied for naturalization papers as an American citizen and the activity of the United States resulted in his release through the efforts of President Pierce. His release was not accomplished, however, without strenuous protest on the part of Austria. The Secretary of State ruled that: "This right to protect persons having a domicile, though not native-born or naturalized citizens, rests on the firm foundation of justice."

Many foreigners in years past have become naturalized citizens of the United States in order to escape military and other service in their native

country, and after securing citizenship have returned to reside in their native land. A law of 1907 recognizes the principle of protection in allowing the Secretary of State at his discretion to issue passports limited to six months to persons who have declared their intention to become citizens of the United States. However, these are not good in states of prior allegiance. Expatriation of this kind is not approved by the United States, and naturalization is now permitted only to those persons who declare their intention to reside permanently in the United States.

Questions

To the Pupil:

1. Who are citizens of the United States?
2. Enumerate the requirements for obtaining citizenship.
3. From references find out how people lose their American citizenship.
4. Describe the entire process of naturalization.
5. Why was the law changed so that the wife of an alien eligible to naturalization must become naturalized in order to become a citizen?
6. Why is the exception made that an alien man who has served in the army or navy of the United States and an alien women who marries an American citizen can become naturalized in one year?
7. What are the reasons for requiring a literacy test before admitting aliens?
8. Under the Johnson Immigration Law, two per cent of the total number of any nationality living in the United States in 1890 are admitted. After July 1, 1927, the maximum number of immigrants admissible from the countries to which the law applies shall be 150,000, and

these shall be apportioned in accordance with the "national origin" principle, according to which newcomers are admitted in proportion to the total number of each stock to the entire white population. Discuss the justice of this law. Why was the date 1890 used instead of 1910?

9. Why were our laws on immigration made so restrictive during and after the World War?
10. In some states an alien is permitted to vote after taking out his first papers sometimes several years before he is entitled to receive a Certificate of Naturalization. Discuss the advisability of such practice.
11. The king of a foreign country maintained that as long as the people who emigrated to America used the mother tongue and taught their children the mother tongue—that he could depend on their loyalty to his country. What suggestions does this make for changes in our naturalization laws?
12. What is Americanization? Ascertain what is being done along this line in your own and other communities. What evidences indicate that some of our own citizens need this training?
13. Why do most of the immigrants who come to America now settle in the big cities? How does this complicate the problem of Americanization?
14. Show that it is a wise provision that a Certificate of Naturalization can be canceled within five years after a person leaves the United States and takes up permanent residence in a foreign country.

Things to Do:

1. Find out from some naturalized foreigner the reasons that brought him to America and the early impressions he had of our country and people; or if it can be done without embarrassment, secure the information from some alien who has lived here several years as to why he is not going through the process of naturalization

to become a citizen of the United States. Report the interview to the class.

2. Dramatize the naturalization of a foreigner. Use as a basis a booklet on "How to Obtain Citizenship Papers," by Thompson, issued by the National Security League of New York City.
3. Debate the following question:
   Resolved, That all aliens should be compelled to learn to read and write the English language, and be able to pass a test on the Declaration of Independence and the Constitution before being admitted to citizenship.
4. Prepare an argument to use in convincing an alien that he should become naturalized.
5. From outside sources determine when a naturalized citizen of the United States is not a citizen. How could this be remedied? Refer to *Atlantic Monthly,* January, 1925, "When Is a Citizen Not a Citizen?"

Books for class reports:

"The Promised Land," Mary Antin.
The story of a little Jewish immigrant girl.

"Our Foreign-born Citizens," Annie E. S. Beard.
Short sketches of the lives of thirty-four prominent naturalized Americans.

"Americans by Adoption," Joseph Husband.
Short biography of nine great naturalized Americans.

"The Making of an American," Jacob A. Riis.
Experiences of the author.

"The Soul of an Immigrant," Constantine M. Panunzio.
Story of an Italian boy in becoming an American citizen.

CHAPTER TEN

THE MAYFLOWER COMPACT WITH COMMENTS

The Compact.

While the *Mayflower* was anchored off Cape Cod in December, 1620, the Pilgrims met in its cabin and signed the following compact:

"In ye name of God Amen. We whose names are underwriten, the loyall subjects of our dread soveraigne Lord King James, by ye grace of God, of great Britaine, Franc, & Ireland king, defender of ye faith, &c haveing undertaken, for ye glorie of God and advancemente of ye christian faith and honour of our king and countrie, a voyage to plant ye first colonie in ye Northerne parts of Virginia. Doe by these presents solemnly mutualy in ye presence of God, and one of another, covenant, combine our selves togeather into a civill body politick, for our better ordering, preservation furtherance of ye ends aforesaid; and BY VERTUE HEAROF to enacte, constitute, and frame shuch just equall lawes, ordinances, Acts, constitutions, offices, from time to time, as shall be thought most meete convenient for ye generall good of ye Colonie; Unto which we promise all due submission and obedience. In witnes wherof we have hereunder subscribed our names at Cap-Codd ye 11 of November, in ye year of ye raigne of our soveraigne Lord King James of England, France, & Ireland ye eighteenth, and of Scotland ye fiftie fourth. Ano: Dom. 1620."

The Compact not a Constitution.

This compact is sometimes called the first written constitution with democratic government. Strictly speaking, however, it is not a constitution. A constitution creates a form of government, specifies the functions of government, and defines and limits the powers of government. In this sense the compact was not a constitution, nor did it create a constitution. It was simply an agreement of resolute, high-minded, God-fearing men, binding themselves to obey whatever constitutions and laws should thereafter be enacted by mutual consent. The spirit of the makers of the Compact was, undoubtedly, akin to that of the framers of the Constitution.

The people of Hartford, Windsor, and Wethersfield created and established a government by the adoption of "The Fundamental Orders of Connecticut" in 1639. This Connecticut Constitution, rather than the *Mayflower* Compact, should be considered the beginning of our Constitution. "It is on the banks of the Connecticut, under the mighty preaching of Thomas Hooker and in the constitution to which he gave life, if not form, that we draw the first breath of that atmosphere which is now so familiar to us. The birthplace of American democracy is Hartford."

CHAPTER ELEVEN

THE DECLARATION OF INDEPENDENCE

In Congress, July 4, 1776.

The Unanimous Declaration of the thirteen United States of America:

Preamble, or Introduction, Telling Why the Declaration Is Publicly Issued.

Statement of the Rights of Men, the Reasons for Establishing Governments, and the Circumstances Under Which Changes in Govern-

"WHEN in the course of human events, it becomes necessary for one people to dissolve the political bands, which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.—We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.—That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed

for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.—Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.—

ment Are Justifiable.

He has refused his Assent to Laws, the most wholesome and necessary for the public good. He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.—He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.—He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.—He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the

Statement of the Unjust Acts of the King.

people.—He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the meantime exposed to all the dangers of invasion from without, and convulsions within.—He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new Appropriations of Lands.—He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.—He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.—He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance.—He has kept among us, in times of peace, Standing Armies without the Consent of our legislature.—He has affected to render the Military independent of and superior to the Civil power.—He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation!—For quartering large bodies of armed troops among us:—For protecting them, by a mock Trial, from punishment for any Murders which they should commit on the Inhabitants of these States:—For cutting off our Trade with all parts of the world:—For imposing Taxes on us without our Consent:—For depriving us in many cases, of the benefits of Trial by Jury:—For transporting us beyond Seas to be tried for

pretended offences:—For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:—For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:—For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.—He has abdicated Government here, by declaring us out of his Protection and waging War against us.—He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.—He is at this time transporting large Armies of foreign Mercenaries to complete the works of death, desolation and tyranny, already begun with circumstances of Cruelty, perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.—He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.—He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.—In every stage of these Oppressions We have Petitioned for Redress in the most humble terms. Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a

Statement of the Remonstrances of the Colonists.

free people. Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.—WE, THEREFORE, the REPRESENTATIVES OF THE UNITED STATES OF AMERICA, IN GENERAL CONGRESS, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions do, in the Name, and by authority of the good People of these Colonies, solemnly PUBLISH and DECLARE, That these United Colonies are, and of Right ought to be FREE AND INDEPENDENT STATES; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain is and ought to be totally dissolved; and that as FREE AND INDEPENDENT STATES, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which INDEPENDENT STATES may of right do. And for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor."

Conclusion—The Declaration of Colonial Independence.

Only a few of the signatures on the parchment copy [1] are now legible. Consequently they are given below, classified by states and occupations:

NEW HAMPSHIRE.
Josiah Bartlett (Physician)
William Whipple (Sailor)
Matthew Thornton (Physician)

MASSACHUSETTS BAY.
John Hancock (Merchant)
Samuel Adams (Merchant)
John Adams (Lawyer)
Robert Treat Paine (Lawyer)
Elbridge Gerry (Merchant)

RHODE ISLAND.
Stephen Hopkins (Farmer)
William Ellery (Lawyer)

CONNECTICUT.
Roger Sherman (Shoemaker)
Samuel Huntington (Lawyer)
William Williams (Statesman)
Oliver Wolcott (Physician)

NEW YORK.
William Floyd (Landholder)
Philip Livingston (Merchant)
Francis Lewis (Merchant)
Lewis Morris (Farmer)

NEW JERSEY.
Richard Stockton (Lawyer)
John Witherspoon (Minister)
Francis Hopkinson (Lawyer)
John Hart (Farmer)
Abraham Clark (Lawyer)

PENNSYLVANIA.
Robert Morris (Merchant)
Benjamin Rush (Physician)
Benjamin Franklin (Printer)
John Morton (Surveyor)
George Clymer (Merchant)
James Smith (Lawyer)
George Taylor (Manufacturer)

[1] "There are three texts of the Declaration which may be called official. One is the text in what is called the 'rough' *Journal;* a second is the text in the 'corrected' *Journal;* a third is the text on parchment, the one which was signed by the members of Congress. The most authoritative text, one would suppose, should be that in the corrected *Journal.* Apart from spelling, punctuation, and capitalization, this text is the same as that in the rough *Journal* except in two instances, in each of which a single word is omitted from the text in the corrected *Journal* which appears in the rough *Journal.* That these omissions were not intentional seems clear from the fact that they were not made in the final parchment copy. The above follows the parchment copy except the last paragraph which is changed in capitalization for emphasis."

PENNSYLVANIA—*Continued*
James Wilson (Lawyer)
George Ross (Lawyer)

DELAWARE.
Cæsar Rodney (Landholder)
George Read (Lawyer)
Thomas M'Kean (Lawyer)

MARYLAND.
Samuel Chase (Lawyer)
William Paca (Lawyer)
Thomas Stone (Lawyer)
Charles Carroll of Carrollton (Lawyer)

VIRGINIA.
George Wythe (Lawyer)
Richard Henry Lee (Soldier)
Thomas Jefferson (Lawyer)
Benjamin Harrison (Planter)
Thomas Nelson, Jun. (Statesman)
Francis Lightfoot Lee (Planter)
Carter Braxton (Planter)

NORTH CAROLINA.
William Hooper (Lawyer)
Joseph Hewes (Merchant)
John Penn (Lawyer)

SOUTH CAROLINA.
Edward Rutledge (Lawyer)
Thomas Heyward, Jun. (Lawyer)
Thomas Lynch, Jun. (Lawyer)
Arthur Middleton (Planter)

GEORGIA.
Button Gwinnett (Farmer)
Lyman Hall (Physician)
George Walton (Lawyer)

The Declaration was signed in this order: Hancock, Bartlett, Livingston, Paine, Floyd, John Adams, Lewis, Walton, Samuel Adams, Stockton, Huntington, Hopkins, Hart, Clark, Lewis, Morris, Morton, Francis Lightfoot Lee, Penn, Sherman, Whipple, Witherspoon, Ellery, Hooper, Robert Morris, Harrison, Williams, Franklin, Paca, Hopkinson, Stone, Carroll, Jefferson, Taylor, Rutledge, Hewes, Smith, Ross, Clymer, Heyward, Gwinnett, Read, Wilson, Lynch, Chase, Braxton, Rush, Hall, Rodney, Nelson, Middleton, Wythe, R. H. Lee, Gerry, Wolcott, Thornton, M'Kean.

At the signing of the Declaration, the average age of the members was forty-four years.

At the time of their deaths, five were over ninety years of age, nine between eighty and ninety, nine between seventy and eighty, thirteen between sixty and seventy, twelve between fifty and sixty, seven between forty and fifty and one died at the age of thirty.

The longevity of the signers is remarkable since they lived to the average age of approximately sixty-five years and ten months.

The youngest member was Edward Rutledge who signed in his twenty-seventh year.

The oldest member was Benjamin Franklin who signed in his seventy-first year.

CHAPTER TWELVE

THE CONSTITUTION OF THE UNITED STATES, [1] AND AMENDMENTS

"Not a dead, dull document, but the very substance of our freedom."

September 17, 1787

Preamble.

We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this CONSTITUTION for the United States of America.

The Preamble serves to introduce the purposes of the Constitution by first indicating its source (the people rather than the states); secondly, it insures national unity, peace at home and while traveling abroad, justice in courts, personal liberty, and provides for the welfare of all.

ARTICLE I

Legislative Powers.

SECTION I. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section I of Article I vests all legislative powers in Congress. Note that Section I of Article II vests executive power in the President and that Section I

[1] The parts italicized and in brackets throughout the Constitution as printed here are obsolete or no longer operative.

of Article III vests judicial power in the Supreme Court.

House of Representatives.

SECTION II. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

Since 1920 women vote the same as men. "Electors" means voters which now includes nearly all citizens over twenty-one years of age. The members of the House are called Congressmen.

Qualifications of Representatives.

No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

These qualifications give us stronger candidates, and allow even immigrants a chance to hold office after seven years of citizenship. Custom requires a person to be a resident of the district from which he is chosen.

Apportionment of Representatives.

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers [*which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons*]. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; [*and, until such enumeration shall be made, the State of New*

Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three].

The clause embodying the "three-fifths rule" was rendered obsolete by Amendment XIV, Section 2. The temporary apportionment clause beginning "and until such enumeration is made—" expired in 1791. The first census was taken in 1790, and a federal census has been taken every ten years since that time.

Vacancies, How Filled.

When vacancies happen in the representation from any State, the Executive Authority thereof shall issue writs of election to fill such vacancies.

If a representative dies, resigns, or is removed from office, the Governor of his state may call a special election to choose a successor. This guarantees equal representation to all.

Officers.

The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

The Speaker or "Chairman" of the House is chosen by the members every two years and has great power because he usually represents the party in control. In a case of impeachment the House makes the charges of misconduct in office, but the Senate acts as a jury and makes the decision.

Senate.

SECTION III. The Senate of the United States shall be composed of two Senators from each State, chosen [*by the Legislature thereof*], for six years; and each Senator shall have one vote.

This paragraph is superseded by Amendment XVII, which provides that Senators are elected by direct vote of the people.

Classification of Senators. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. [*The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year*], so that one-third may be chosen every second year; [*and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies*].

The term of a Senator is six years. This scheme makes the Senate a continuous body with one third retiring every two years.

Qualifications of Senators. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

Qualifications for Senators are higher than those for representatives, as it was thought that older, more experienced and better prepared men should compose the Senate.

Vice President. The Vice President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

The Vice President presides over the Senate. He has practically no power, voting only in case of a tie.

Officers. The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the office of President of the United States.

If the Vice President should be absent for any reason, the Senate may then choose one of its own members as the presiding officer. The Senate, like the House, makes rules for conducting its business and records its proceedings.

Senate a Court for Trial of Impeachments.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

An impeachment case is similar to a grand jury hearing. Only "civil officers of the United States" are subject to impeachment. Members of the House and Senate are not included because they try their own members. President Johnson was impeached in 1868, but the vote for conviction fell short of the necessary two-thirds. Judges Pickering in 1804, Humphries in 1862, and Archibald in 1912 were impeached and convicted. Remember that impeachment means accusation, not conviction.

Judgment in Case of Impeachment.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

In the several cases of impeachment under our Constitution, officials found guilty were merely removed from office, sometimes disqualified from holding federal offices. Guilty parties are subject to further trial under Amendment V. The object

of impeachment is to protect us from acts of disloyal officials not to punish crime.

Elections of Senators and Representatives.

SECTION IV. The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to places of choosing Senators.

A state sets the qualifications of age and residence, and some states require an educational qualification, usually the ability to read and write.

Congress has superseded the states by making regulations authorizing voting by written or printed ballots, requiring contiguous districts, and the time for the election of members of Congress as the first Tuesday after the first Monday in November of every second year. Congress also fixed the day for voting in all states for the electors of the President and Vice President as the first Tuesday after the first Monday in November.

Meeting of Congress.

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Under this paragraph new members elected in November do not take their seats until December of the next year, more than a year after election.

Organization of Congress.

SECTION V. Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members in such manner and under such penalties as each House may provide.

In either house, the quorum or number required to do business is a majority or more than half of the members. That would mean at least 49 Senators and 218 Representatives.

Rule of Proceedings.

Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds expel a member.

Either House has censored members and expelled some. In 1910 the Insurgent movement in the House resulted in many changes in the rules. Persons not members may be punished for contempt of the House or of a member.

Journal of Proceedings.

Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal.

The Congressional Record published daily while Congress is in session furnishes for the benefit of the public the proceedings and a record of the vote.

Adjournment of Congress.

Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Since 1800 Congress has met at Washington, D.C. Action of both Houses is required to make a legislative measure a law; consequently both should be in session at the same time and place.

Pay and Privileges of Members.

SECTION VI. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

This paragraph allows members to perform duties without interference and removes every restriction on debate except their own rules of order.

Other Offices Prohibited.

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

This paragraph prevents members from increasing their own salaries and establishing offices for personal gain during their term. No person can hold a federal office and be a member of either House at the same time.

Revenue Bills.

SECTION VII. All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments, as on other bills.

The plan is designed to permit the body nearest the people to control expenditure of money raised by taxation but practically without effect since the Senate can amend a revenue bill by substituting a new measure as an enacting clause.

How Bills Become Laws.

Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by two-thirds of that House it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return; in which case it shall not be a law.

If Congress adjourns during the ten days that a President is entitled to hold a bill for investigation, he has absolute veto power. He simply withholds his signature to nullify the bill. This is called a "pocket veto." President Cleveland vetoed 301 bills during his first administration. A President cannot veto single items. Many times undesirable provisions called "riders" are attached to bills and become laws. Nine bills have been signed after adjournment since 1789. Eight of these were signed in this way in 1920.

President's Power Over Legislation.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and the House of Represen-

tives, according to the rules and limitations prescribed in the case of a bill.

The veto gives the President more power over Congress, thereby giving him a better opportunity to state his objections and control his program of legislation. "Veto" is a Latin word, meaning *I forbid.*

Powers Vested in Congress.

SECTION VIII. The Congress shall have power:

To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.

The Sixteenth Amendment should be added to this to make it cover Income Taxes. Congress is curtailed by Section 9 (5) from levying taxes on exports; by Section 9 (6) from discriminating in taxes at different ports of entry. Duties are customs taxes.

Excises are taxes on domestic production, sale, or use of articles, such as tobacco.

Imposts are customs taxes combining the idea of both duties and excises in one word.

Financial.

To borrow money on the credit of the United States.

This was the basis of Hamilton's plan of refunding the national debt in 1790. It gives Congress power to use the credit of the United States to issue paper money, charter national banks, establish a Federal Reserve System, and issue Treasury notes and bonds such as the Liberty or Victory Loans.

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes. **Commerce.**

Congress has the power to control interstate commerce and communication; in fact every species of such commercial intercourse. States are forbidden to levy any import or export duties against other states. Various acts, such as the Sherman Act to control industry and the Transportation Act creating a Railroad Labor Board connected with Interstate commerce, have been passed under this clause. It is called the "commerce clause."

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States. **Naturalization and Bankruptcy.**

See Naturalization, page 172.

Under the Articles of Confederation provisions for bankruptcy were omitted. Consequently state insolvency laws were passed with varied requirements giving priority to local creditors. This clause took precedence over state laws, and an act of Congress made it operative.

If creditors having claims of $500 or more against any person, company, corporation, or bank, file a petition in the United States Courts showing the existence of debts amounting to $1000 or evidence of the assignment of property within four months showing preference for certain creditors or evidence that a preferred creditor obtained preference by legal proceedings, the court as a result of the request may declare involuntary bankruptcy.

On the other hand if any person, except a corporation, makes voluntary assignment of his property in a United States District Court for the benefit of his creditors, and of his own accord admits in writing that his debts exceed his property, he is adjudged a voluntary bankrupt. However, a person cannot take advantage of the voluntary bankruptcy law more than once in six years.

It is apparent that the law operates to the advantage of both creditors and debtors. If no fraud appears in the hearing, a bankrupt is released to go in business again free from further legal obligations to pay the debts involved except those owed to the municipality, credits secured through fraudulent pretense, alimony, and a few other exceptions.

Coins, Weights and Measures.

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

Congress controls the coining of all money and the printing of paper money. Paper money is really an order on the Treasury for its face value in gold or silver deposited there. Standard weights and measures are kept at Washington, but duplicates are kept at state capitols. Uniform standards safeguard the public from fraud in buying and selling.

Counterfeiting.

To provide for the punishment of counterfeiting the securities and current coin of the United States.

Making coins, paper money, or stamps in imitation of those of the United States is called "counterfeiting." Regardless of the conditions under which

such imitations are made, the violator is subject to severe punishment by the federal courts.

To establish post-offices and post-roads. **Post-Offices.**

The service granted by this clause benefits every citizen. Rural Free Delivery, Air Mail Service, and the Federal Highway Act show that our government is not slow to utilize every facility to give its citizens service. It can use injunction and other legal means to prevent interference with transportation of the mails. It also has the power to punish for misuse of the mails.

To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive rights to their respective writings and discoveries. **Inventions, Copyrights, and Trade Marks.**

This clause protects authors and inventors not only here, but by international agreement extends to other countries as well. A copyright lasts twenty-eight years and can be renewed for twenty-eight more. Books, films, maps, cartoons, etc., are protected by copyrights. Holders of patents have the exclusive right of manufacture for seventeen years but cannot control sales or prices.

To constitute tribunals inferior to the Supreme Court. **Courts.**

See Inferior Courts, page 153.

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations. **Piracies.**

Congress is given power to define and punish crimes committed by its citizens at sea and in viola-

tion of International Law. Requiring protection for our citizens creates responsibility for their acts against other nations.

Piracy is robbery committed on the high seas; felony is a crime punishable either by death or by imprisonment in the State prison.

War. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

Under this clause Congress declared war in 1812, 1846, 1898, and 1917. It is now generally recognized that the President can take action leading to a state of war, but Congress has the final decision.

Letters of marque are commissions to owners of private ships to make war on ships of the enemy.

Army. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.

In times of peace the standing army is necessarily small in a democracy. The two years' clause permits the people to control the expenditure and determine the size of the standing army.

Volunteer armies have been sufficient except in Draft Army law of 1863 and the selective service draft of 1917.

During the World War this clause was used as a basis when our nation took over the management of railroads, the control of food and fuel, the output of factories, the classifying of essential and non-essential industries, and the establishing of war prohibition.

To provide and maintain a navy. **Navy.**

The limit of navy growth is now controlled by the 5-5-3 [1] agreement. In the last few years the Naval Air Service has made an enviable record.

To make rules for the government and regulation of the land and naval forces. **Regulations of Army and Navy.**

The National Defense Act of 1916 practically makes a national guard of the state militia. The organization is now so planned that the ranks can be filled by conscription and the militia reorganized as was done in 1917. The new organization scheme built around experienced men will facilitate the training of an army.

In accordance with the provisions of the National Defense Act amended in 1924 the government designated September 13, the birthday of General Pershing, as National Defense Day. On this day a

[1] The Washington, D.C., Conference was called in 1921 at the suggestion of the United States to limit the naval armament of the leading nations of the world. Secretary of State Hughes in addressing the Conference suggested that the United States and Great Britain each be limited to battleships aggregating 500,000 tons and Japan to 300,000 tons or a 5-5-3 ratio. As a result of the controversy a covenant was drawn whereby Naval Armament was limited to the ultimate battle fleets of the five signatory powers as follows:

United States and Great Britain 525,000 tons each, Japan 315,000 tons, and France and Italy 175,000 tons each. An agreement was also made on the scrapping of certain ships of each nation on the basis of this ratio. No battleship may exceed 35,000 tons nor carry guns of a caliber exceeding sixteen inches. No limitation was placed on submarines or auxiliary craft. This agreement was thought to be a step toward world peace.

mobilization of the entire military strength and resources of the United States was requested by the War Department.

Calling Militia. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

Militiamen may not be called to duty by the President more than nine months out of any twelve. The militia was first called in the Civil War and has been called in every war since.

Training Militia. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

The militia of a state is made up of men between the ages of eighteen and forty-five. In most states they receive compensation for drill services and spend some time in a training camp each year. The state appoints the officers, but when serving under the United States, Congress has charge of its organization.

Seat of Government. To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dry-docks, and other needful buildings.

The District of Columbia was located in 1791, and Washington, D.C., situated therein became

the capital in 1800. Congress makes the laws and has complete control over the district. The residents have no vote and elect no representative to Congress nor other city or district officers. Indian reservations, arsenals, federal parks, etc., fall within the meaning of this clause, and crimes committed in such places are punished in federal courts.

Elastic Clause.

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Anticipating the changing conditions due to inventions, progress, and improved conditions of living, this clause has saved many changes in the Constitution. It gives Congress a large measure of control over other departments of government. Congress under this clause is limited to supplementing the enumerated powers given under the Constitution.

Limitations on Congress.

SECTION IX. (1.) [*The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.*]

Refers to slave trade (now obsolete).

Habeas Corpus.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

A writ of Habeas Corpus permits a speedy trial

and is suspended during war in order to better protect our interests.

Attainder. No bill of attainder or ex post facto law shall be passed.

A "bill of attainder" is a legislative act usually resulting without trial in pronouncing a death penalty against an accused person or group of persons, and depriving of all civil rights and power to inherit or transmit property. This was a precaution against the revival of abuses formerly common in England.

This ex post facto clause provides against the enactment of a law making a certain act a crime after it has been committed; also against increasing the penalty for such an act.

Direct Taxes. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

This clause gives the power to levy income taxes. Two income tax acts based on this clause have been declared unconstitutional, because it was not practicable to levy an income tax according to population. This paragraph refers to "poll tax" or "head tax" which has never been levied by the United States. Amendment XVI makes it possible to levy an income tax "without regard to census or enumeration."

Regulations Regarding Customs Duties. No tax or duty shall be laid on articles exported from any State.

Exports are goods sent out of the state for commercial purposes. The principle of not taxing exports was adopted to encourage trade abroad.

Interstate Commerce.

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another, nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

This section gives each state an equal chance and strengthens the idea of "united states."

Appropriations.

No money shall be drawn from the Treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

It is the express duty of the comptroller of the Treasury to see that this paragraph is enforced. The budget system has systematized government expenditures and resulted in saving many millions of dollars.

Titles of Nobility Prohibited.

No title of nobility shall be granted by the United States. And no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Their prejudice against autocracy led our forefathers to take this precaution to *insure democracy.*

Limitations on States.

SECTION X. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No State shall, without the consent of the Congress, lay any impost or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the

net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

This section is intended to state definitely what states cannot do, and doubly emphasizes the powers given and denied Congress, particularly in regard to foreign relations, war, currency, and national commerce. Also see page 132.

ARTICLE II

Executive Department

SECTION I. The Executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected as follows:

A President is elected every four years and inaugurated the following March 4. There is a general feeling that this date should be changed. The number of terms a President may serve is not mentioned in the Constitution. The common feeling that a tenure of two terms is long enough grew from a statement by President Washington, when he refused to consider a third term.

Electors.

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may

be entitled in the Congress; but no Senator or Representative or person holding an office of trust or profit under the United States shall be appointed an elector.

The "Electoral College" was originally planned to give each elector a free choice for President, but now all vote as they are pledged when nominated at their party conventions. The vote is taken by states. It is possible that a President may be selected even though he does not get the majority of the total popular votes cast. Several Presidents have been elected in this manner. See page 141.

Proceedings of Electors. —Proceedings of the House of Representatives.

[*The electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed, and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the vote shall be taken by States, the representation from each State having one vote. A quorum, for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.*]

Superseded by Amendment XII.

Time of Choosing Electors.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

Electors are chosen on Tuesday following the first Monday of November every fourth year. Electors usually meet at each state capitol and cast their votes on the second Monday of the following January, and Congress meets at one P.M. of the second Wednesday in February, to receive the vote.

Qualifications of the President.

No person except a natural-born citizen, [*or a citizen of the United States at the time of the adoption of this Constitution*], shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years and been fourteen years a resident within the United States.

There is nothing in the Constitution to prevent a woman, or a negro, or a person of any religious belief from becoming a President if he has the necessary qualifications and gets the necessary votes.

Presidential Succession.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed or a President shall be elected.

In six cases under the Constitution a Vice President has become President, at the death of Presidents Harrison, Taylor, Lincoln, Garfield, McKinley,

and Harding. What constitutes disability has never been fully decided. Also see page 147.

Compensation.

The President shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

The President's salary is $75,000 a year, with $25,000 for travel, and $117,000 for White House upkeep and clerk hire. He pays income tax as other citizens. If the President's salary is increased, the incumbent cannot benefit by the increase.

Oath of Office.

Before he enter on the execution of his office he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

The above oath is administered by the Chief Justice of the Supreme Court at high noon on March 4 following the election. Woodrow Wilson took the oath on Sunday, March 4, 1917. The word "affirm" is inserted because people of certain religious beliefs will not take an oath.

Powers of President.

SECTION II. The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States except in cases of impeachment.

In war time authority must be centralized. The President also commissions all army officers and directs the war in a general way. A reprieve suspends a sentence; a pardon remits a penalty. The term "heads of departments" refers to the ten department heads or cabinet members selected by the President to counsel with him. See page 143.

Treaties. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

"A treaty is the supreme law of the land," and the conditions are such that a President can dominate. Washington tried unsuccessfully to counsel with the Senate; consequently the Senate later created a Committee on Foreign Relations as a medium to keep the President informed. Once a treaty is made it requires both branches of Congress to abrogate it. The President appoints a few personal agents outside of those he nominates and commissions. President Harding appointed two Senators as delegates to the Washington Conference in which nine nations drafted treaties for the reduction of armaments and others respecting the promotion of peace.

Vacancies.

The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions, which shall expire at the end of their next session.

When a vacancy occurs while Congress is not in session, the President names an appointee temporarily. If the Senate at its next session does not approve the appointment, it must terminate.

Calling, Adjourning, and Advising Congress.

SECTION III. He shall from time to time give to the Congress information of the State of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

President Wilson revived the Washington-Adams idea of appearing in person and reading his message before Congress. President Coolidge delivered the first message that was broadcast by radio. Frequent extra sessions have been called, but Congress has never been adjourned by the President.

Removal of Civil Officers.

SECTION IV. The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

This section makes special provision for the trial and removal of any of the civil officers of the United States.

ARTICLE III

Judicial Department.

SECTION I. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

See page 151.

To What Cases it Extends.

SECTION II. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State, claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

The states must submit to the decisions of the United States courts in all cases where the Constitution, federal laws, or treaties are involved. "Cases of admiralty and maritime jurisdiction" not only apply to the high seas "but navigable waters of the United States" as well. The word "citizens" in this section includes corporations, since a corporation is regarded as a citizen of the state which charters it.

Jurisdiction of the Supreme Court.

In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before-mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

Note that Amendment VII further restricts the Supreme Court.

Rules Respecting Trials.

The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State the trial shall be at such place or places as the Congress may by law have directed.

Compare with Amendment VI.

Treason Defined.

SECTION III. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

This is the only crime defined in the Constitution. In the trial of Aaron Burr the evidence was "irrelevant until there be proof of the overt act by two witnesses." Hence he was permitted to escape punishment.

How Punished

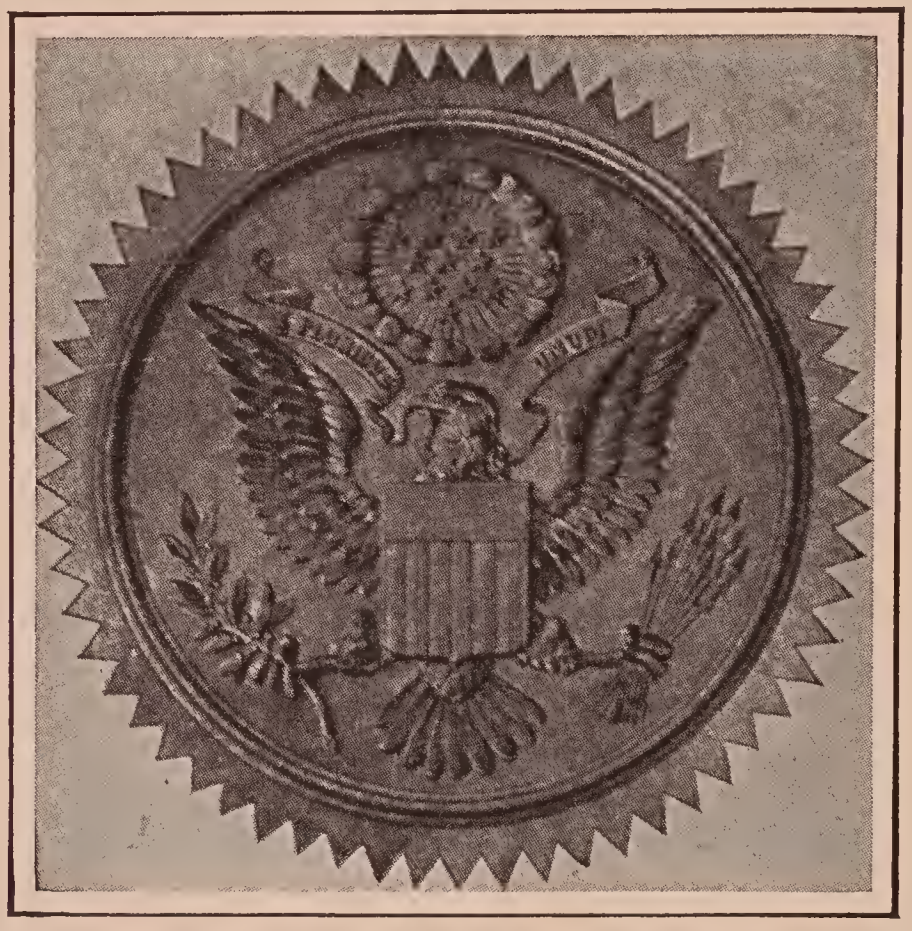
The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted.

Clause one grants the power to punish treason, but clause two protects the innocent children of the guilty against the once common practice of visiting on the children the penalties of those found guilty. The word "attainder" in this case means conviction.

ARTICLE IV

Rights of States.

SECTION I. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.



SEAL OF THE UNITED STATES

This section means that if a document is recorded, a marriage legally performed, a divorce legally granted, or a case is decided in one state, it should generally speaking be recognized in all.

Rights of Citizens.

SECTION II. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

Protects rights of citizens of each state in all states.

Extradition.

A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

This section provides for the return of accused persons who try to evade the law by fleeing to another state. This is called "extradition," and the power of delivery is in the hands of the Governor in the state where the criminal seeks refuge.

Fugitive Slaves.

[*No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.*]

Now obsolete. See Amendment XIII.

New States.

SECTION III. New States may be admitted by the Congress into this Union, but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.

New states are admitted on a basis of equality with the consent of both the Federal Government and the citizens of an organized territory. States are guaranteed protection from without and assistance if necessary to settle troubles within.

Power of Congress Over Public Lands.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

Congress has power to acquire territory, set up territorial governments, and lease lands or mines. Whether that power comes from this paragraph or is acquired in its capacity as a sovereign is not fully determined.

Republican Government Guaranteed.

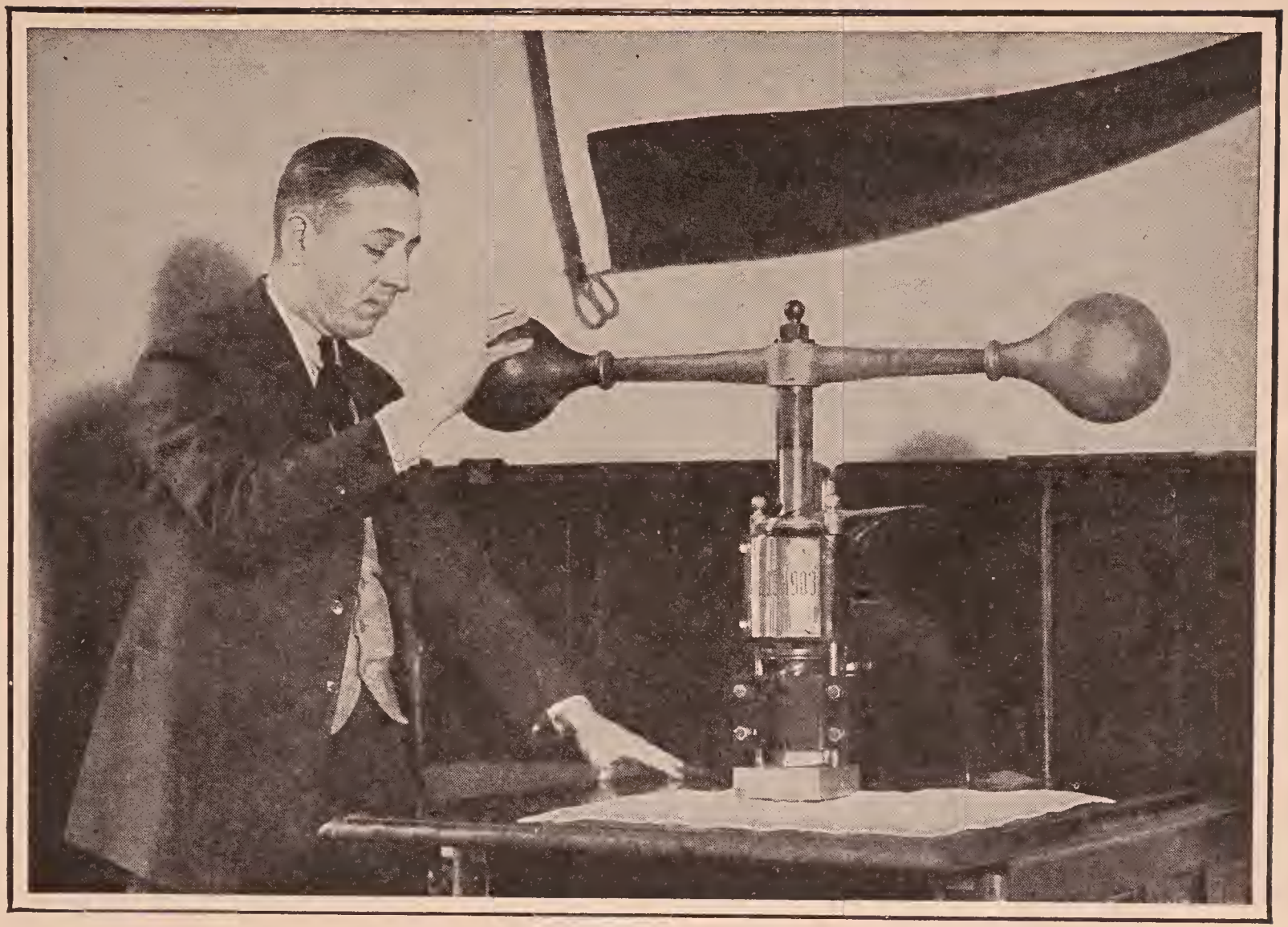
SECTION IV. The United States shall guarantee to every State in this Union a republican form of government and shall protect each of them against invasion; and, on application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence.

By a declaration made by President Tyler concerning rebellion in Rhode Island in 1842, it was established that Congress could overthrow a separate republican government established within a state. Under the last clause the President is authorized to employ military forces of the United States or militia of the states to discharge the duties of the United States. During the railway strike in 1894, President Cleveland sent troops to Chicago against the protest of the Governor of Illinois.

ARTICLE V

Amendment of the Constitution.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-



THE MACHINE WHICH STAMPS THE GREAT SEAL OF THE UNITED STATES

fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided [*that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the Ninth Section of the First Article; and*] that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

Of the two methods only the first has ever been used; *i.e.*, proposed by Congress and referred to the state legislatures. Neither the President nor the courts have any voice in the matter; in fact the fourteenth and fifteenth amendments were passed by Congress and submitted to the states without the President's official knowledge and approval. The first exception expired in 1808. The second is the only part of the Constitution that cannot be amended without unanimous consent.

ARTICLE VI

Validity of Debts.

[*All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation.*]

Under Hamilton's plan of refunding the debt our government took the honorable course of carrying out the promises made and obligations assumed under the Articles of Confederation.

Supreme Law of the Land.

This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

This clause asserts that the authority of the Federal Government is supreme over the states, and that state laws in conflict with National laws must give way.

Oath to Constitution.

The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States, and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

State officers are often required to discharge duties authorized by the national Constitution, and taking the oath also emphasizes their obligation to the national government.

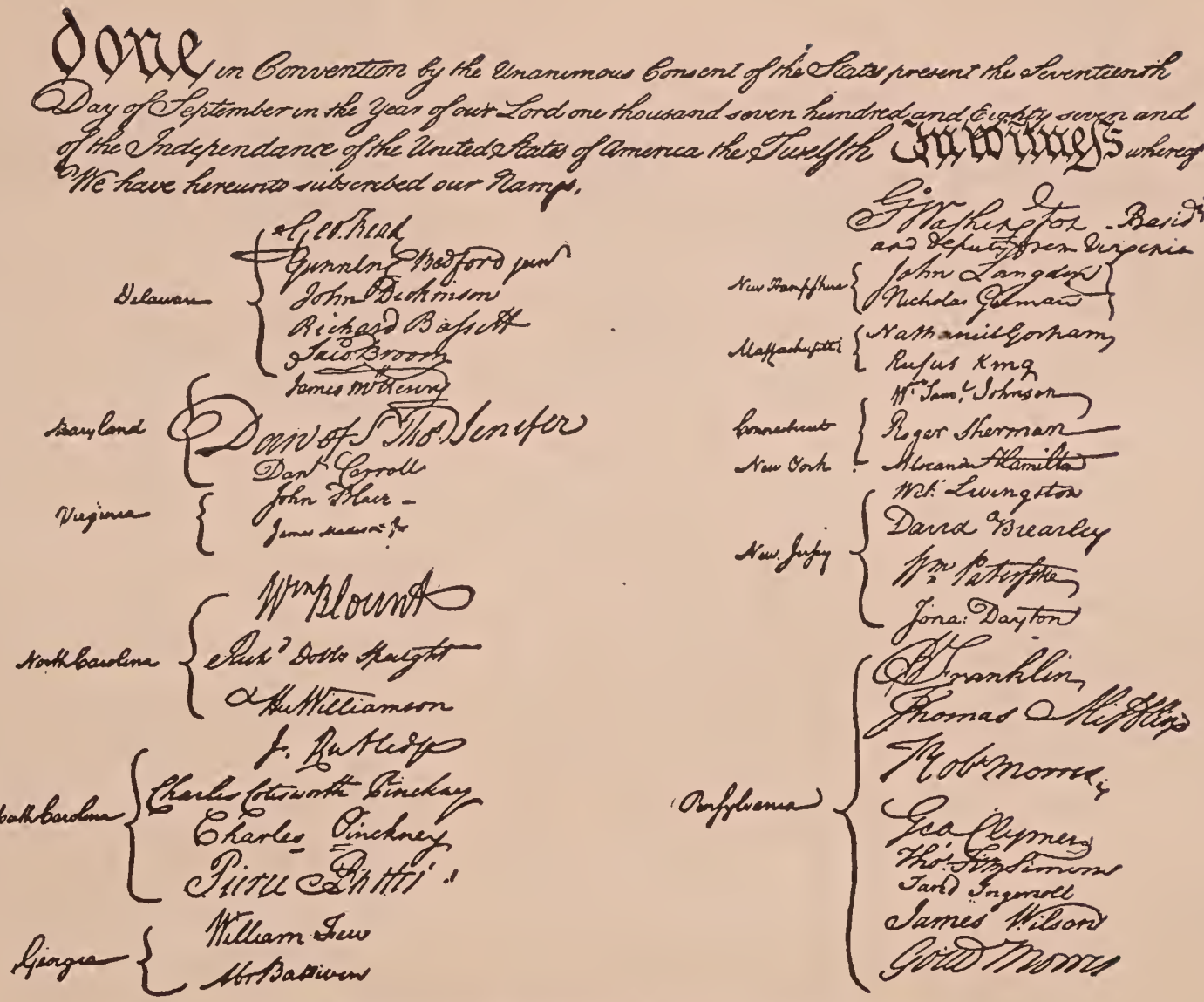
The "religious test" means that a person elected to office shall not be required to repudiate a recognized religion. The word "affirmation" was inserted for the special benefit of the Quakers.

ARTICLE VII

Ratification of the Constitution.

The Ratification of the Conventions of nine states,[1] shall be sufficient for the Establishment of this Constitution between the states so ratifying the same.

[1] Note that unlike the Articles of Confederation it required only nine states to ratify.



SIGNATURES OF MEMBERS OF THE CONVENTION.

ARTICLES IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURE OF THE SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

The first ten amendments were proposed by Congress at their first session, in 1789, and ratified by the states in 1791. This constitutes the "Bill of Rights" of the National Constitution.

AMENDMENT I

Personal Freedom.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

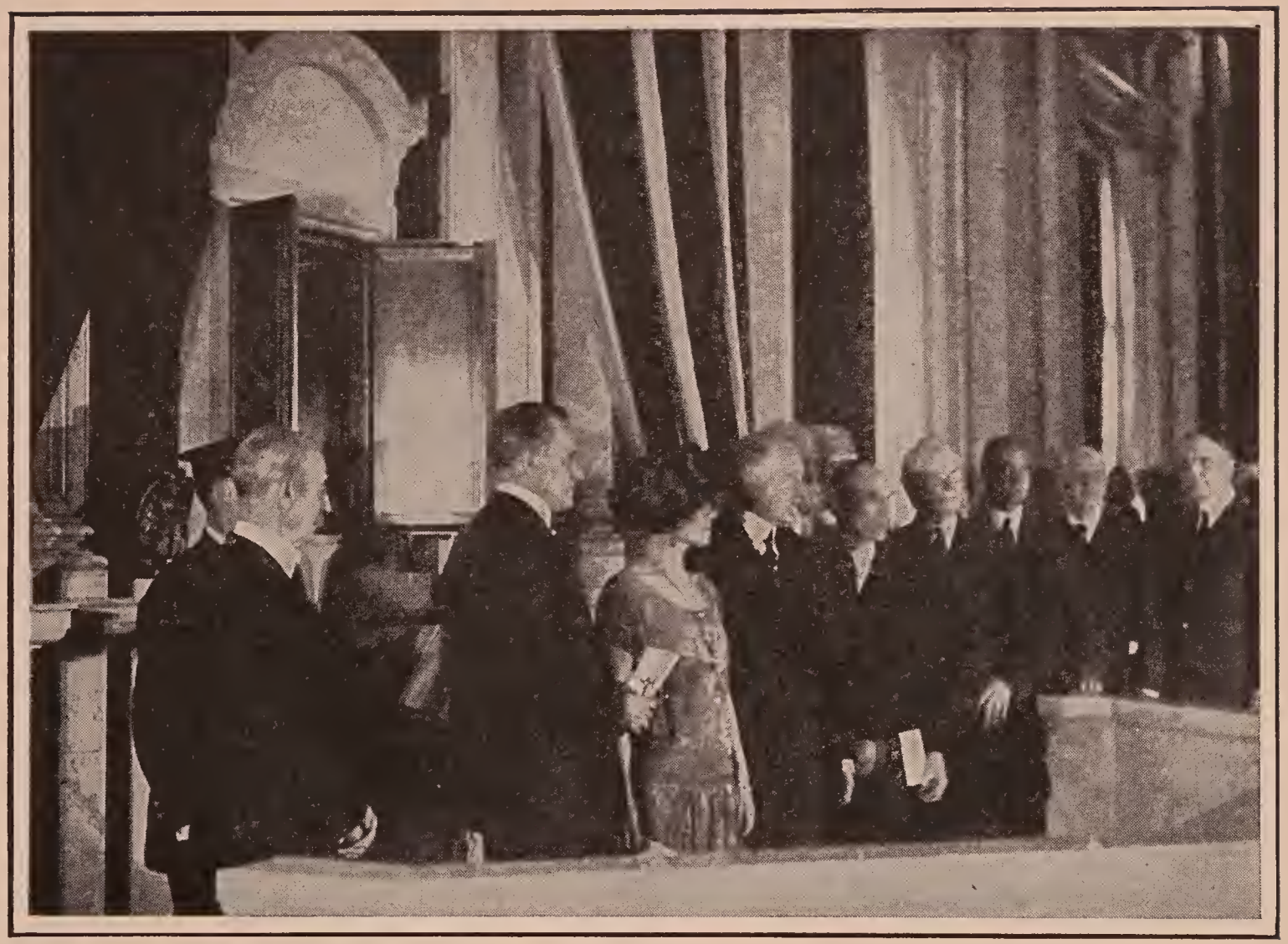
Freedom of belief and speech are a natural outgrowth of the period of settlement. An established religion is one supported wholly or in part by public taxation. By refusing use of the mails the government can further control propaganda and all types of publications detrimental to public interests.

AMENDMENT II

Right to Bear Arms.

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

People can bear arms openly but not concealed unless authorized.



PRESIDENT AND MRS. COOLIDGE WITNESS THE ENSHRINING OF THE CONSTITUTION AND THE DECLARATION OF INDEPENDENCE

AMENDMENT III

Quartering of Soldiers.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

One of the causes of the Revolutionary War.

AMENDMENT IV

Right of Search.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

"A man's home is his castle."

Without a warrant property cannot be searched nor may papers secured without a warrant be used in evidence against a person.

AMENDMENT V

Protection of Accused.

No person shall be held to answer for a capital or other infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

The Grand Jury is a legally chosen group to secretly investigate the crime and decide whether

there is sufficient evidence for a public trial before a petit jury. A person cannot be tried twice for the same crime nor be compelled to testify against himself. According to judicial practice a wife cannot be compelled to testify against her husband. The usual method of taking private property with just compensation for public use is termed "eminent domain."

AMENDMENT VI

Rights of Accused

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

As stated this section reviews a criminal's rights.

AMENDMENT VII

Jury Trial in Lawsuits.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States than according to the rules of the common law.

This section restricts the power of the court in reviewing questions of fact upon appeal from cases tried by a jury. The Judge can order a new trial or review the law on a writ of error, but cannot substitute his opinion for the facts in the case.

AMENDMENT VIII

Bail and Punishment.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

One of the theories of our government is that a person is innocent until he is proved guilty. Giving "bail" is a guarantee that the person will appear for trial as a Judge instructs, and releases the accused from jail until the trial or hearing. If the charge is a serious one, bail may be refused. Cruel punishments are prohibited.

AMENDMENT IX

Rights Enumerated.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

It is obvious that the intelligence of the people could be trusted to retain the fundamental unwritten rights we enjoy without enumerating them.

AMENDMENT X

Powers not Delegated.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

This Amendment was designed to make state and local rights even more secure.

AMENDMENT XI

State Exemption from Suit.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign State.

This amendment limits the powers of the Federal Courts by preventing the government from being a party in lawsuits not only "by citizens of another state" but even by a citizen in his own state.

In 1793, Chisholm, a citizen of South Carolina, sued in the Supreme Court to recover a debt from the state of Georgia. Georgia refused to appear and the case went against her. Several similar suits were pending and the people generally disliked the idea of states being involved in the courts. Congress by almost unanimous vote submitted the above Amendment which was ratified in 1798.

Most states have therefore established a Court of Claims in which a claim against the state can be presented. When the claim is declared valid, it is customary for the state to make the necessary appropriation. If the state refuses to pay, it cannot be forced to do so.

AMENDMENT XII

New Method of Electing President and Vice President.

The electors shall meet in their respective States, and vote by ballot for President and Vice President, one of whom at least shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit, sealed, to the seat of the Government of the United States directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for

President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice President shall be the Vice President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

This article, declared in force December 25, 1804, supersedes part of Article II, Section 1, Clause 3. Before the adoption of this amendment the electors voted for two candidates for President. The candidate receiving the most votes was made President and the one receiving the next highest number was made Vice President. Under this plan there could be a Republican President and a Democratic Vice President. The contest in 1800 between Jefferson and Burr when the members of the Electoral College voted by parties for the first time and the election was thrown into the House, resulted in the

adoption of this amendment. President Adams was elected by the House in 1825 and Vice President Johnson by the Senate in 1837. In 1876 a dispute arose and the controversy was referred to an Electoral Commission. The disputed votes were not counted until two days after March 4, 1877, when the new President was to be inaugurated. Also see pages 140-142.

AMENDMENT XIII

Abolition of Slavery.

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Enforcement Clause.

Congress shall have power to enforce this article by appropriate legislation.

Adopted in 1865. Designed to give the negro freedom and thereby abolishing slavery.

AMENDMENT XIV

Citizens and Their Rights.

I. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Apportionment of Representatives.

II. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Repre-

sentatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being of twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Loss of Political Privilege.

III. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

Public Debt.

IV. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, [*or any claim for the loss or emancipation of any slave*]; but all such debts, obligations, and claims shall be held illegal and void.

Enforcement Clause.

V. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Section I made the negro a citizen but applies to persons of foreign birth also. Sections II, III, and IV are for the most part historical. The qualifications of voters have been left largely to the states. Some states compel certain educational requirements for voters, but the power given Congress especially under Section II has never been exercised.

AMENDMENT XV

Negro Suffrage. The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Enforcement Clause. The Congress shall have power to enforce the provisions of this article by appropriate legislation.

This is the last of the group of amendments giving the negro equal rights. He was freed by the thirteenth (1865), made a citizen by the fourteenth (1868), and in the fifteenth (1869) given the right to vote. Some states require literacy tests, or tests other than "race, color, or previous condition of servitude" as a qualification for voting.

AMENDMENT XVI

Income Tax. The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States and without regard to any census or enumeration.

It is generally conceded that taxing incomes is the only way to reach real property values. In 1895 the Supreme Court declared an Income Tax Law unconstitutional in accordance with Article I, Section 9 (4), because it was apportioned according to wealth rather than census. For that reason the last clause is specific. More recently the Supreme Court has ruled that an income tax is a tax on the use of property and therefore a type of excise tax. Income taxes must be uniform; *i.e.,* the same on incomes of the same size, but this does not prohibit higher rates on larger incomes.

AMENDMENT XVII

Popular Election of Senators.

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures.

Filling Vacancies.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies, provided that the Legislature of any State may empower the Executive thereof to make temporary appointments until the people fill the vacancies by election as the Legislature may direct.

Effect on Incumbents.

[*This amendment shall not be construed as to affect the election or term of any senator chosen before it becomes valid as part of the Constitution.*]

This Amendment supersedes Article I, Section 3 (1), covering the election of Senators by direct vote of the people. This was thought necessary in order to avoid the possibilities of fraud that might attend selection through state legislatures and to hold Senators directly responsible to the people.

AMENDMENT XVIII

Prohibition.

[*After one year from the ratification of this article*], the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Enforcement.

The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Ratification Limitation.

[*This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.*]

Although the time limit was set as one year, the Food Production Act passed by Congress as a war measure forbade the manufacture and sale of intoxicating liquors after July 1, 1919, so it became a law fully six months before the one year had elapsed. By a strict enforcement act ruled as constitutional one half of one per cent alcoholic content in any beverage classifies it as intoxicating. No doubt the enforcement of this amendment has injected a new note in the Constitution. Undoubtedly concurrent power as here used refers to joining forces of State and Federal Government in the enforcement, but just how far this can be carried out remains for the Supreme Court to decide.

AMENDMENT XIX

Woman Suffrage.

The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of sex.

Enforcement Clause.

Congress shall have power, by appropriate legislation, to enforce the provisions of this article.

This amendment is popularly known as the "Woman Suffrage Amendment." Only the question of sex is involved in it. This does not remove from the states the power to determine the qualifications of its voters, but forbids the states to make any distinction on account of sex.

CHAPTER THIRTEEN

FULL HONORS TO OUR FLAG

Realizing the need for an authentic code of flag etiquette, representatives of sixty-eight patriotic organizations met in Washington, D.C., at the request of the American Legion. The code drafted by that conference is printed here through courtesy of the *American Legion Weekly*. While the rules adopted by the conference have no official government sanction, nevertheless they represent the authoritative opinion of the principal patriotic bodies of the United States and of Army and Navy experts, and are binding on all of the organizations which took part in the gathering. They are being followed now by 113 patriotic organizations. The rules as given below are from the final corrected draft of the code as brought out of the conference.

Description of the Flag.

The Flag of the United States of America has thirteen horizontal stripes—seven red and six white, the red and white stripes alternating—and a union which consists of white stars of five points on a blue field placed in the upper quarter next the staff and extending to the lower edge of the fourth red stripe from the top. The number of stars is the same as

the number of states in the Union. The canton or union now contains forty-eight stars arranged in six horizontal and eight vertical rows, each star with one point upward. On the admission of a state into the Union a star will be added to the union of the Flag, and such addition will take effect on the July fourth next succeeding such admission.

The proportions of the Flag as prescribed by Executive Order of President Taft, October 29, 1912, are as follows:

Hoist (width) of flag	1.
Fly (length) of flag	1.9
Hoist (width) of union	7/13
Fly (length) of union	0.76
Width of each stripe	1/13
Diameter of each star	.0616

There are certain fundamental rules of heraldry which, if understood generally, would indicate the proper method of displaying the flag. The matter becomes a very simple one if it is kept in mind that the National Flag represents the living country and is itself considered as a living thing. The union of the flag is the honor point; the right arm is the sword arm, and therefore the point of danger and hence the place of honor.

Code of the Flag.

1. The Flag should be displayed only from sunrise to sunset, or between such hours as may be designated by proper authority. It should be hoisted briskly but should be lowered slowly and

ceremoniously. The Flag should be displayed on all national and state holidays and on historic and special occasions.

2. When carried in a procession with another flag or flags, the Flag of the United States of America should be either on the marching right—*i.e.*, the Flag's own right—or, when there is a line of other flags, the Flag of the United States of America may be in front of the center of that line.

3. When displayed with another flag against a wall from crossed staffs, the Flag of the United States of America should be on the right—the Flag's own right—and its staff should be in front of the staff of the other flag.

4. When a number of flags of states or cities or pennants of societies are grouped and displayed from staffs with the Flag of the United States of America, the latter should be at the center or at the highest point of the group.

5. When flags of states or cities or pennants of societies are flown on the same halyard with the Flag of the United States of America, the latter should always be at the peak. When flown from adjacent staffs the Flag of the United States of America should be hoisted first and lowered last. No such flag or pennant, flown in the former position, should be placed above, or, in the latter position, to the right of the Flag of the United States of America; *i.e.*, to the observer's left.

6. When flags of two or more nations are displayed, they should be flown from separate staffs

of the same height and the flags should be of approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in time of peace.

7. When the Flag is displayed from a staff projecting horizontally or at an angle from the window sill, balcony, or front of building, the union of the Flag should go clear to the peak of the staff unless the Flag is at half staff. When the Flag is suspended over a sidewalk from a rope, extending from a house to a pole at the edge of the sidewalk, the Flag should be hoisted out from the building toward the pole, union first.

8. When the Flag is displayed in a manner other than by being flown from a staff it should be displayed flat, whether indoors or out. When displayed either horizontally or vertically against a wall, the union should be uppermost and to the Flag's own right; *i.e.*, to the observer's left. When displayed in a window it should be displayed the same way—with the union or blue field to the left of the observer in the street. When festoons, rosettes, or drapings are desired, bunting of blue, white, and red should be used, but never the Flag.

9. When displayed over the middle of the street, the Flag should be suspended vertically with the union to the north in an east and west street, or to the east in a north and south street.

10. When used on a speaker's platform, the Flag, if displayed flat, should be displayed above and behind the speaker. If flown from a staff, it should

be in the position of honor, at the speaker's right. It should never be used to cover the speaker's desk or to drape over the front of the platform.

11. When used in connection with the unveiling of a statue or monument, the Flag should form a distinctive feature during the ceremony, but the Flag itself should never be used as the covering for the statue.

12. When flown at half-staff, the Flag should be hoisted to the peak for an instant and then lowered to the half-staff position; but before lowering the Flag for the day it should be raised again to the peak. By half-staff is meant hauling down the flag to one half the distance between the top and the bottom of the staff. If local conditions require, divergence from this position is permissible. On Memorial Day, May 30, the Flag is displayed at half-staff from sunrise until noon and at full staff from noon until sunset, for the nation lives, and the Flag is the symbol of the living nation.

13. Flags flown from fixed staffs are placed at half-staff to indicate mourning. When the Flag is displayed on a small staff, as when carried in a parade, mourning is indicated by attaching two streamers of black crêpe to the spearhead, allowing the streamers to fall naturally. Crêpe is used on the flagstaff only by order of the President.

14. When used to cover a casket, the Flag should be placed so that the union is at the head and over the left shoulder. The Flag should not be lowered

into the grave or allowed to touch the ground. The casket should be carried foot first.

15. When the Flag is displayed in the body of the church it should be from a staff placed in the position of honor—at the congregation's right as they face the clergyman. The service flag, the state flag, or other flag should be at the left of the congregation. If in the chancel or on the platform, the Flag of the United States of America should be placed at the clergyman's right as he faces the congregation, and the other flags at his left.

16. When the Flag is in such a condition that it is no longer a fitting emblem for display, it should not be cast aside or used in any way that might be viewed as disrespectful to the national colors, but should be destroyed as a whole, privately, preferably by burning or by some other method in harmony with the reverence and respect we owe to the emblem representing our country.

CAUTIONS

1. Do not permit disrespect to be shown to the Flag of the United States of America.

2. Do not dip the Flag of the United States of America to any person or any thing. The regimental colors, state flag, organization or institutional flag will render this honor.

3. Do not display the Flag with the union down except as a signal of distress.

4. Do not place any other flag or pennant above

or, if on the same level, to the right of the Flag of the United States of America.

5. Do not let the Flag touch the ground or the floor or trail in the water.

6. Do not place any object or emblem of any kind on or above the Flag of the United States of America.

7. Do not use the Flag as drapery in any form whatsoever. Use bunting of blue, white, and red.

8. Do not fasten the Flag in such manner as will permit it to be easily torn.

9. Do not drape the Flag over the hood, top, sides or back of a vehicle, or of a railway train or boat. When the Flag is displayed on a motor car, the staff should be affixed firmly to the chassis, or clamped to the radiator cap.

10. Do not display the Flag on a float in a parade except from the staff.

11. Do not use the Flag as a covering for a ceiling.

12. Do not carry the Flag flat or horizontally, but always aloft and free.

13. Do not use the Flag as a portion of a costume or of an athletic uniform. Do not embroider it on cushions or handkerchiefs, or print it on paper napkins or boxes.

14. Do not put lettering of any kind on the Flag.

15. Do not use the Flag in any form of advertising or fasten an advertising sign to a pole from which the Flag is flown.

16. Do not display, use, or store the Flag in such

a manner as will permit it to be easily soiled or damaged.

PROPER USE OF BUNTING

Bunting of blue, white, and red should be used for covering a speaker's desk, draping over the front of a platform and for decoration in general. Bunting should be arranged with the blue above, the white in the middle, and the red below.

Salute to the Flag.

During the ceremony of hoisting or lowering the Flag or when the Flag is passing in a parade or in a review, all persons present should face the Flag, stand at attention, and salute. Those present in uniform should render the right hand salute. When not in uniform, men should remove the headdress with the right hand and hold it at the left shoulder, the hand being over the heart. Women should salute by placing the right hand over the heart. The salute to the Flag in a moving column is rendered at the moment the Flag passes.

Pledge to the Flag.

In pledging allegiance to the Flag of the United States of America, the approved practice in schools, which is suitable also for civilian adults, is as follows:

Standing with the right hand over the heart, all repeat together the following pledge:

"I pledge allegiance to the Flag of the United States of America and to the Republic for which it

stands; one nation indivisible, with liberty and justice for all."

At the words "to the Flag" the right hand is extended, palm upward, toward the Flag, and this position is held until the end, when the hand, after the words "justice for all," drops to the side.

However, civilian adults will always show full respect to the Flag when the pledge is being given by merely standing at attention, men removing the headdress. Persons in uniform should render the right hand salute.

Salute to National Anthem.

When the national anthem is played and the Flag is not displayed, all present should stand and face toward the music. Those in uniform should salute at the first note of the anthem, retaining this position until the last note. All others should stand at attention, men removing the headdress. When the Flag is displayed, the regular "salute to the Flag" should be given.

"The Star Spangled Banner" is recommended for universal recognition as the national anthem.

The Shield.

The shield of the United States of America has thirteen vertical stripes—seven white and six red—with a blue chief without stars.

Federal Flag Laws.

There is but one Federal statute which protects the Flag throughout the country from desecration. This law provides that a trademark cannot be registered which consists of or comprises, among other

things, "the Flag, coat of arms, or other insignia of the United States or any simulation thereof" (33 Stat. L., p. 725, February 20, 1905). Congress has also enacted legislation providing certain penalties for the desecration, mutilation, or improper use of the Flag in the District of Columbia (39 Stat. L., p. 900, February 8, 1917).

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